



## EMN STUDY 2016

# Family Reunification of TCNs in the EU: National Practices

### Top-line "Factsheet" (National Contribution)

*Overview of the National Contribution – introducing the Study and drawing out key facts and figures from across all sections of the National Contribution, with a particular emphasis on elements that will be of relevance to (national) policymakers.*

Family reunification represents the second most frequent ground for granting temporary residence in Slovakia. As of 30 June 2016, there were 5,402 third-country nationals in Slovakia with temporary residence for the purpose of family reunification, which is 14.7% of the total number of third-country nationals with residence in Slovakia<sup>1</sup>.

As of 30 November 2016, 6,009 third-country nationals resided in the Slovak Republic with temporary residence for the purpose of family reunification.

Council Directive 2003/86/EC on the right to family reunification was fully transposed into the Slovak legislation, and the exercise of the right to family reunification enables third-country nationals to obtain temporary residence in the territory of the Slovak Republic. Family members of beneficiaries of international protection can exercise the right to family reunification both within the residence system and the international protection system. Though the system of granting international protection is not discussed in detail in this study, we highlight the differences influencing the right to family reunification.

The most universal and most frequent way of family reunification of third-country nationals provided by the Slovak legislation is the granting of **temporary residence for the purpose of family reunification**.

Under Article 27(1) of Act No. 404/2011 Coll. on Residence of Aliens and on changes and amendments to some acts, as amended (hereinafter referred to as the "Act on Residence of Aliens"), temporary residence for the purpose of family reunification can be granted to:

- a) a family member of a third-country national with temporary residence or permanent residence;
- b) relatives in the direct ascending line of a person granted asylum under 18 years of age; or
- c) a dependent person in accordance with an international treaty<sup>2</sup>.

A family member of a third-country national with temporary residence or permanent residence is:

- a) a spouse if the married couple is at least 18 years old;
- b) an unmarried child under 18 years of age of a third-country national and his/her spouse;

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<sup>1</sup> Source: Statistical overview of regular and irregular migration in the Slovak Republic – 1<sup>st</sup> half-year of 2016. Available at: <http://www.minv.sk/?rok-2016-1>

<sup>2</sup> Agreement between States which are parties to the North Atlantic Treaty and other states participating in the Partnership for Peace regarding the status of their forces.

- c) his/her unmarried child under 18 years of age;
- d) an unmarried child of his/her spouse under 18 years of age;
- e) his/her dependent unmarried child over 18 years of age or a dependent unmarried child over 18 years of age of his/her spouse who cannot provide for himself/herself due to a long-term adverse health condition;
- f) his/her parent or the parent of his/her spouse who is dependent on his/her care and lacks appropriate family support in the country of origin.

The national legislation of the Slovak Republic also provides for the family reunification of certain categories of third-country nationals by granting permanent residence for a period of five years. The type of obtained residence depends on the sponsor's residence status.

In Slovakia, **permanent residence for five years** can be granted to the following categories of family members of third-country nationals:

- a) unmarried child under 18 years of age entrusted to the custody of a third-country national who is the spouse of a Slovak national with permanent residence in Slovakia;
- b) unmarried child under 18 years of age of a third-country national with permanent residence for five years, or a child under 18 years of age entrusted to the custody of a third-country national with permanent residence for five years;
- c) dependent child over 18 years of age who cannot provide for himself/herself due to a long-term adverse health condition of a third-country national with permanent residence.

**Permanent residence for an indefinite period of time** can be granted to a child under 18 years of age of a third-country national with permanent residence for an indefinite period of time or to a child under 18 years of age entrusted to the custody of a third-country national with permanent residence for an indefinite period of time.

A family member of an asylum seeker or of a beneficiary of subsidiary protection in Slovakia has the possibility to obtain, apart from temporary residence for the purpose of family reunification, also residence within the system of international protection, i.e. **to obtain asylum or subsidiary protection for the purpose of family reunification**. From the point of view of family status, an asylum seeker is considered an alien granted permanent residence, and the beneficiary of subsidiary protection is considered an alien granted temporary residence (this shall not apply if such person has permanent residence in Slovakia).

Asylum or subsidiary protection<sup>3</sup> for the purpose of family reunification is granted to an alien who is

- a) the spouse of a person granted asylum or of a beneficiary of subsidiary protection, if their marriage lasts and lasted also at the time when the person granted asylum left the country of origin, and the person granted asylum/subsidiary protection gives his/her prior written consent to the family reunification;
- b) an unmarried child of a person granted asylum or of a beneficiary of subsidiary protection or of a person pursuant to letter a) under 18 years of age, or
- c) to the parent of an unmarried person granted asylum/subsidiary protection under 18 years of age or to the person to the custody of whom s/he was entrusted, if the person granted asylum/subsidiary protection gives his/her prior written consent.

A total of 12 asylums for the purpose of family reunification and 11 subsidiary protections for the purpose of family reunification have been granted in Slovakia since 2011, of which 7 respectively 8 were granted to females.

At present, Slovakia does not plan to adopt any legislative changes with an impact on the scope and nature of the right of third-country nationals to family reunification. The existing legislation has been in place since the Act on Residence of Aliens entered into effect on 01 January 2012. When compared to the previous legislation, the new act has brought minor changes which are described below. On 01 January 2014, an amendment to Act No. 480/2002 Coll. on Asylum and on changes and amendments to some acts, as amended, entered into effect, having extended

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<sup>3</sup> Note: Family reunification through the granting of asylum or subsidiary protection for the purpose of family reunification is only possible with a person granted asylum on the grounds of "persecution" (Article 8 of the Asylum Act) or a beneficiary of subsidiary protection on the grounds of "serious injustice" (Article 13a of the Asylum Act).

the category of persons who can obtain asylum or subsidiary protection for the purpose of family reunification by persons who are minors granted asylum or minors granted subsidiary protection and were entrusted to the custody.

## 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 right to family reunification of third-country nationals with legal residence in Slovakia is defined in the Act on Residence of Aliens which transposed Council Directive 2003/86/EC on the right to family reunification. Council Directive 2003/86/EC on the right to family reunification was transposed into the Slovak legislation by Act No. 558/2005 Coll. on changes and amendments to Act No. 48/2002 Coll. on Residence of Aliens and on changes and amendments to some acts, as amended, with effect from 15 December 2005. This act fully adopted the definition of family members in accordance with Article 4(1) of the Directive, and enables the parents and spouse of the sponsor (Article 4(2)(a) of the Directive) and the adult children of the sponsor and his/her spouse (Article 4(2)(b) of the Directive) to obtain residence in the Slovak territory, in which case the age of adult children is limited by the national legislation.<sup>4</sup> In the case of parents, the right to family reunification can only be exercised if the spouses are over 18 years of age. Slovakia does not allow family reunification in the case of unmarried partners, registered partners and their children.

In the case of unaccompanied minors, the Act on Residence of Aliens does not limit the possibility of family reunification only to the parents of the minor, but grants the right to obtain residence in Slovakia to any predecessor of the minor in direct line, as well.

The possibility of family reunification by granting permanent residence for five years is in place also in the case of third-country nationals who prove their dependence on a citizen of the Slovak Republic with permanent residence in Slovakia with whom they are in a family relationship in direct line; for example, a single parent who is not able to provide for himself/herself abroad and is dependent on the care of a citizen of the Slovak Republic who is his/her relative in direct line.

There is no distinction in the Slovak legislation whether the family was formed in the country of origin or in the Slovak territory, which means that temporary residence for the purpose of family reunification can be obtained irrespective of this fact. However, the granting of asylum or subsidiary protection for the purpose of family reunification to the spouse of a person granted asylum or of a beneficiary of subsidiary protection in Slovakia is only possible in case they were married already in the country of origin.

Slovakia takes a special approach to the children of aliens with residence in Slovakia and born in Slovakia or in another EU/EEA Member State or in the Swiss Confederation, by enabling them to obtain residence under special conditions. If the legal representative of the child submits an application for temporary or permanent residence in Slovakia within 90 days following the birth of the child, his/her residence in Slovakia is considered legal until a decision on this application is issued. Such applicant is not required to present the travel document of the child, which is otherwise the reason for non-acceptation of the application.

If a child is born to a female granted asylum or subsidiary protection in Slovakia, the Slovak legislation regulates granting of asylum or subsidiary protection for the purpose of family reunification to this child provided that the legal conditions are met.

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<sup>4</sup> At the latest by reaching 25 years of age, if the child is continuously preparing for job by studying or cannot prepare for job by studying or perform gainful activities due to illness or injury.

**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.

Please support your answers by providing qualitative evidence, e.g. from (media) reports, political debate, etc. (Quantitative evidence is requested in the subsequent question so should not be covered here).

Act No. 404/2011 Coll. on Residence of Aliens and on changes and amendments to some acts, as amended, entered into effect on 01 January 2012, having replaced the previous legislation – Act No. 48/2002 Coll. The new act has not brought major changes with the respect to the right to family reunification.

As for the scope, the new legislation narrowed the possibility to grant temporary residence for the purpose of family reunification to dependent children of third-country nationals over 18 years of age by limiting this possibility to persons who are not able to provide for themselves due to a long-term adverse health condition. In this case, the national legislation has been brought fully in compliance with Council Directive 2003/86/EC on the right to family reunification. On the other hand, the new legislation has extended the possibility to grant temporary residence for the purpose of family reunification with the parent of the alien to a wider category of sponsors with temporary residence (with the exception of temporary residence for the purpose of study). The original legislation limited this possibility to sponsors with temporary residence for the purpose of business and employment.

As for rights associated with temporary residence for the purpose of family reunification, the new act has extended the possibility to work after the expiry of 12 months from the granting of residence to all aliens with this type of residence. This right was originally limited by the residence status of the sponsor (only temporary residence for the purpose of business or employment or person granted asylum) and by the type of family member (the sponsor's parent did not have this right).

The possibility of doing business, previously limited in a similar way as in the case of employment, was also extended to all categories of family members, with the exception of the parents of the sponsor or of the sponsor's spouse who are dependent on the sponsor's care and lack appropriate family support in their country of origin, as well as dependent unmarried children over 18 years of age of the sponsor or such children of the sponsor's spouse who are not able to provide for themselves due to a long-term adverse health condition. These categories of family members are not allowed to do business. The right to do business arises right upon the granting of temporary residence, and not after 12 months of continuous stay, as previously limited by the legislation.

Act No. 495/2013 Coll. on changes and amendments to Act No. 480/2002 Coll. on Asylum and on changes and amendments to some acts, as amended, entered into effect on 01 January 2014. This amendment extended the category of persons who can obtain asylum or subsidiary protection for the purpose of family reunification by persons entrusted with the custody of minors granted asylum or subsidiary protection, provided that the minor gave his/her previous written consent.

At present, the issues related to the right of third-country nationals to family reunification are not a priority for national policies, are not the subject of public debates, and no legislative changes affecting the scope of this right are foreseen in the future.

Slovakia has no private sponsorship programmes in place for third-country nationals.

**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.

Please do not here include the Eurostat data mentioned above in Section 7 above, as this information is available publically and can therefore be analysed centrally for the Synthesis Report.

**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.?

N/A Slovakia does have statistical data in the required form.

## Section 2: Definition of sponsor and family members

This section of the Synthesis Report will aim to provide information on the understanding of family members entitled to family reunification across the (Member) States. The definition of family members is prescribed in Art. 4 in Chapter II of Directive 2003/86/EC. The section will also aim to clarify who is eligible to be a sponsor to an application for family reunification (Art. 3 in Chapter I of Directive 2003/86/ EC). **If applicable, please distinguish to what extent any of the provisions apply to certain/ all groups of migrants (see Figure 1 above) applying for family reunification in your (Member) State depending on the grounds of residence of the sponsor (e.g. refugee, BSP, worker, student, etc.). If the provisions vary across different groups of migrants, please describe the variations.**

**Q4. a. Who can be a sponsor<sup>5</sup> to an application for family reunification in your (Member) State (e.g. UAMs, students, workers, etc.)?**

A sponsor can be any third-country national with permanent or temporary residence in Slovakia, a person granted asylum or a beneficiary of subsidiary protection in Slovakia.

These categories of third-country nationals can be sponsors for all groups of family members, with the exception of a third-country national with permanent residence for the purpose of study who cannot be the sponsor for a family member who is his/her parent or the parent of his/her spouse and is dependent on his/her care and lacks appropriate family support in his/her country of origin.

Only aliens with permanent residence for five years or permanent residence for an indefinite period of time can reunite with a person under 18 years of age who was entrusted to their custody.

Unaccompanied minors can become sponsors only in the case that they were granted asylum or subsidiary protection in Slovakia.

**b. Does the national law of your (Member) State allow beneficiaries of subsidiary protection (BSPs)<sup>6</sup> to apply for family reunification? Y/ N**

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?

Yes. Beneficiaries of subsidiary protection in Slovakia are considered aliens granted temporary residence, as a result of which they are subject to the same provisions of the Act on Residence of Aliens regulating the right to family reunification. At the same time, the family member of an alien with subsidiary protection has the right to apply for subsidiary protection for the purpose of family reunification in Slovakia within the international protection system.

**Q5. Does your (Member) State extend the scope of family reunification beyond nuclear/ core members of the family,<sup>7</sup> i.e. parents, adult children, non-married partners, etc.? Y/ N**

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

- Parents? Y/ N

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<sup>5</sup> 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.

<sup>6</sup> Currently, BSPs are not covered by Directive 2003/86/EC.

<sup>7</sup> 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.

Yes, in the case of unaccompanied minors who were granted asylum in Slovakia, and in the case of the parent of the sponsor or of his/her spouse provided that the parent is dependent on the sponsor's care and lacks appropriate family support in his/her country of origin.

The parent of a minor who was granted asylum or subsidiary protection in Slovakia can be granted asylum or subsidiary protection for the purpose of family reunification, if such minor is unmarried and gives his/her prior written consent to the granting of asylum or subsidiary protection to his/her parent.

- Adult children? Y/ N

Yes, but only in the case of a dependent<sup>8</sup> unmarried child over 18 years of a sponsor or a dependent unmarried child over 18 years of the sponsor's spouse provided that the child cannot provide for himself/herself due to a long-term adverse health condition.

- Same-sex partners who are married? Y/ N

No.

- Same-sex partners who are registered? Y/ N

No.

- Non-married partners? Y/ N

No.

- '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 above<sup>9</sup>)? Y/ N

If yes, please specify how the concept of dependency<sup>10</sup> is defined in the relevant provisions/ practice.

No.

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

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

A child under 18 years of age entrusted to the custody of third-country national. Only a third-country national with permanent residence for five years or for an indefinite period of time can be the sponsor. The alien to whose custody the minor was entrusted can obtain asylum or subsidiary protection in Slovakia for the purpose of family reunification with such minor person.

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<sup>8</sup> Article 3 of Act No. 600/2003 Coll. on Child Benefit and on changes and amendments to Act No. 461/2003 Coll. on Health Insurance, as amended.

<sup>9</sup> I.e. other than those referred to in Art. 4 of Directive 2003/86/EC.

<sup>10</sup> 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.

### Section 3: Requirements for exercising the right to family reunification

*This section of the Synthesis Report will report on the requirements for exercising the right to family reunification (referred to in Art. 6-8 in Chapter IV of Directive 2003/EC/86). **If applicable, please distinguish to what extent any of the provisions apply to certain/ all groups of migrants applying for family reunification in your (Member) State depending on the grounds of residence of the sponsor (e.g. refugee, BSP, worker, student, etc.). If the provisions vary across different groups of migrants, please describe the variations.***

**Q6. Does your (Member) State (plan to) impose the following requirements<sup>11</sup> 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?  
Y/ N

Yes. The proof of accommodation is not required only in the case of the family members of a person granted asylum, where the application for family reunification was submitted not later than three months from the granting of asylum. Such proof is not required also in the case that the family member of a person granted asylum or of a beneficiary of subsidiary protection applies for asylum or subsidiary protection in Slovakia for the purpose of family reunification. The third-country national applying for temporary residence for the purpose of family reunification is required to prove shared accommodation with the third-country national with whom s/he wishes to be reunited.

- Healthcare insurance? Y/ N

No. Health insurance does not form the requirement for the granting of temporary residence for the purpose of family reunification in Slovakia. It is required once temporary residence has been granted. Also, it is not required in the case that the family member of a person granted asylum or of a beneficiary of subsidiary protection applies for asylum or subsidiary protection in Slovakia for the purpose of family reunification. The proof of health insurance is required upon the submission of the application in special cases only – in the case of a child under 18 years of age of a third-country national with permanent residence for an indefinite period of time or a child under 18 years of age entrusted to the custody of a third-country national with permanent residence for an indefinite period of time, applying for permanent residence for an indefinite period of time.

- Sufficient financial resources to provide for the sponsor and his/ her family? Y/ N

Yes. It is not required only in the case of the family members of a person granted asylum where the application for family reunification was filed not later than three months after the granting of asylum. Furthermore, it is not required in the case that the family member of a person granted asylum or of a beneficiary of subsidiary protection applies for asylum or subsidiary protection in Slovakia for the purpose of family reunification.

**Q7. a. Does the national law of your (Member) State require TCNs to comply with any integration measures before and/ or after admission?<sup>12</sup> Y/ N**

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

- Civic integration exams? Y/ N

If yes, please specify:

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

No.

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

N/A

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

<sup>11</sup> 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.

<sup>12</sup> 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.

N/A

- If/ What costs are incurred by applicants:

N/A

- Language tests? Y/ N

If yes, please specify:

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

No.

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

N/A

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

N/A

- If/ What costs are incurred by applicants:

N/A

- Other integration measures (please specify)? Y/ N

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

No.

- If the national law of your (Member) State does not currently require TCNs to comply with any of the above measures – any planned changes? Y/ N

If yes, please provide further information below:

No.

**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.

N/A

**Q8. Does your (Member) State set a waiting period<sup>13</sup> before a sponsor's family members can reunite with him/ her?** Y/ N

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?

No.

**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?<sup>14</sup>** Y/ N

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

Yes. The national law provides for a rejection of an application of a third-country national applying for temporary residence for the purpose of family reunification if there are reasonable grounds to believe that the applicant would pose a threat to state security, public order or public health during his/her stay.

It is, however, not possible to identify the reason for rejection of an application for residence from available statistics and the intensity to which such option is used in practice.

**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:<sup>15</sup>**

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<sup>13</sup> 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.

<sup>14</sup> 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.

<sup>15</sup> Art. 9-12 in Chapter V of Directive 2003/86/EC set out more favourable conditions for family reunification of refugees.

- Application and possible extension of the grace period of (minimum) three months before the requirements for exercising the right to family reunification apply?<sup>16</sup> Y/ N  
If yes, is this grace period of (minimum) three months extended and if so, for how long?<sup>17</sup> Y/ N For how long?

Yes. Slovakia applies a three-month period which cannot be extended. After the expiry of this period, it is still possible to apply for asylum in Slovakia for the purpose of family reunification, where, again, the applicant is not required to submit any documents, except for a proof of family relationship.

- Restriction to relationships established before entry into the (Member) State?<sup>18</sup> Y/ N  
If yes, please specify:

No. Such requirement is not established in the case of granting temporary residence for the purpose of family reunification or permanent residence for five years or permanent residence for an indefinite period of time. This requirement applies only in the case that the spouse of a person granted asylum or of a beneficiary of subsidiary protection applied for asylum or subsidiary protection for the purpose of family reunification in Slovakia.

- Application of a wider definition of family members (going beyond parents) when it comes to UAMs?<sup>19</sup> Y/ N  
If yes, please specify:

Yes. In the case of a person granted asylum under 18 years of age, temporary residence for the purpose of family reunification can be granted to a relative in direct ascending line irrespective of the level of family relationship. In the case of a person granted asylum under 18 years of age and a beneficiary of subsidiary protection under 18 years of age, asylum or subsidiary protection for the purpose of family reunification can be granted, apart from parents, also to the person to whose custody s/he was entrusted.

- Have any of these family reunification rules for refugees been changed recently?? Y/ N  
If yes, please provide further information on these changes below:

Yes. Since 01 January 2014, the category of persons that can obtain asylum or subsidiary protection for the purpose of family reunification has been extended by persons entrusted with the custody of minors with granted asylum or subsidiary protection, provided that the minor gives his/her prior written consent.

**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? Y/ N**

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).

Yes. However, family members of a beneficiary of subsidiary protection are not allowed to apply for temporary residence for the purpose of family reunification within three months from the granting of subsidiary protection without the need to prove accommodation, health insurance, financial coverage and a proof of no criminal records.

**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?

1. Family members of Slovak citizens are always granted permanent residence, while family members of third-country nationals are in principle granted temporary residence. Same type of permanent residence can only be granted to children under 18 years of age of a third-country national with permanent residence for five

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<sup>16</sup> Art. 7(1) of Directive 2003/86/EC.

<sup>17</sup> Art. 7(1) of Directive 2003/86/EC.

<sup>18</sup> Art. 9(2) of Directive 2003/86/EC.

<sup>19</sup> Art. 10(3)(b) of Directive 2003/86/EC.

years/indefinite period of time, children under 18 years of age entrusted to the custody of a third-country national with permanent residence for five years/indefinite period of time or to dependent children over 18 years of age of third-country nationals with permanent residence who cannot provide for themselves due to a long-term adverse health condition.

2. Permanent residence is for the first time granted for five years, while temporary residence for the purpose of family reunification is granted until the expiry of the residence of the third-country national with respect to whom the third-country national exercises the right to family reunification (sponsor) and for a maximum period of five years.

3. In the case of the spouse of a Slovak citizen, the age is not limited to 18 years.<sup>20</sup>

4. Residence can also be granted to a dependent relative in direct line of a Slovak citizen (without limitation to the level of family relationship); in the case of a third-country national (except for unaccompanied minors granted asylum), residence can only be granted to the parent.

5. Family members of Slovak citizens applying for permanent residence for five years are exempt from the payment of the administrative fee. In the case of third-country nationals, persons exempt from this obligation are family members of persons granted asylum and of beneficiaries of subsidiary protection and minors.

**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.

Slovakia has no available studies dealing in general with the access of third-country nationals to the right to family reunification. The existing works concern exclusively beneficiaries of subsidiary protection<sup>21</sup> and unaccompanied minors<sup>22</sup>.

These studies highlight mainly the practical problem related to the obtaining of asylum for the purpose of family reunification or subsidiary protection for the purpose of family reunification – the possibility to obtain such protection exclusively from within the Slovak territory. The authors of these studies recommend taking measures to accelerate and facilitate the process of granting visa to the family members of third-country nationals with subsidiary protection and extend the categories of family members with the right to family reunification by those defined in Article 23(5) of Council Directive 2004/83/EC on minimum standards for the qualification and status of third-country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted. Regarding family reunification with unaccompanied minors, the author of the study points out the lengthy and complicated process which can even lead to the loss of the minor's right to family reunification once reaching the age of majority.

**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).

N/A

**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? Y/ N
- Effects of the integration measures as applied in your (Member) State on the right to family reunification and integration of TCNs? Y/ N
- Effects of the minimum age requirement<sup>23</sup> as applied in your (Member) State on the prevention of forced marriages or any misuse of family reunification (e.g. marriages of convenience)? Y/ N

<sup>20</sup> The Slovak legislation allows couples to marry already at the age of 16 of the engaged persons with the court's consent.

<sup>21</sup> Bargerová, Z. a kol.: STAV INTEGRÁCIE CUDZINCŮV S DOPLNKOVOU OCHRANOU DO SPOLOČNOSTI a návrhy odporúčaní pre tvorcov verejných politík. Stimul, Bratislava 2011. Available at: [http://www.hrl.sk/sites/default/files/publications/stav\\_integracie\\_cudzincov\\_s\\_doplnkovou\\_ochranou\\_do\\_spolocnosti.pdf](http://www.hrl.sk/sites/default/files/publications/stav_integracie_cudzincov_s_doplnkovou_ochranou_do_spolocnosti.pdf)

<sup>22</sup> Fajnorová, K.: Právne aspekty práce s odlúčenými deťmi. Human Rights League 2015. Available at [http://www.hrl.sk/sites/default/files/publications/manual\\_mbs.pdf](http://www.hrl.sk/sites/default/files/publications/manual_mbs.pdf)

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).

N/A

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

*This section of the Synthesis Report will report on the process for submitting and examining an application for family reunification in the (Member) States or abroad covered by Chapter III of Directive 2003/86/EC, including the procedures for verifying the fulfilment of the requirements/ measures listed in Section 3 above. You may wish to include flow chart(s) visually illustrating the application process for family reunification in your (Member) State. **If applicable, please distinguish to what extent any of the provisions apply to certain/ all groups of migrants applying for family reunification in your (Member) State depending on the grounds of residence of the sponsor (e.g. refugee, BSP, worker, student, etc.). If the provisions vary across different groups of migrants, please describe the variations. Please note that emphasis should be on the application of these provisions and where applicable, relevant national case law should be provided.***

**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?<sup>24</sup>

The application needs to be submitted by the family member in person. On behalf of a minor, the application is submitted by his/her legal representative. The sponsor is entitled to submit the application on behalf of his/her family member who cannot submit the application in person due to helplessness. The sponsor – a Blue Card holder – is entitled to submit the application on behalf of his/her family member if such family member has legal residence in another Member State in which their family relationship lasted.

**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.)?

The application for temporary residence must be submitted by the third-country national in person at the diplomatic mission abroad accredited for the country which issued that person's travel document or at the diplomatic mission accredited for the country in which that person is domiciled. The application for permanent residence for five years must be submitted by the family member at any diplomatic mission of Slovakia abroad. The application for temporary residence or permanent residence can be submitted by the third-country national in person also at the competent alien police department of the Police Force, provided his/her stay in Slovakia is authorised. An exception to this rule are applicants for asylum and persons who were granted tolerated stay in Slovakia on the grounds that their expulsion is not possible and the purpose of their detention has ceased to exist; these persons are not allowed to submit the application from within the Slovak territory. The application for permanent residence for an indefinite period of time and the application for asylum or subsidiary protection for the purpose of family reunification can only be submitted from within the Slovak territory.

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

The identity is proven by means of a travel document and the family relationship on the basis of a document issued by a registry office. If a third-country national submits an application for temporary residence for the purpose of family reunification with a person granted asylum within three months from the granting of asylum, the family

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<sup>23</sup> 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.

<sup>24</sup> 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.

relationship can be proven, apart from a document issued by a registry office, also by another proof of existence of such relationship.

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

In practice, the authorities accept registry documents proving the family relationship. Since the Act on Residence of Aliens admits in the case of family reunification of a third-country national with a person granted asylum, in addition to a document proving the family relationship, other proof of such relationship, the applicant can prove his/her family relationship with any other proof of family relationship as well. From the practical point of view, it is not possible to clearly specify what kind of evidence it can be. As long as the applicant presents such evidence, the police department must examine such evidence, assess its credibility, and decide on its acceptance under the respective procedure.

**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?

If the application is submitted at a diplomatic mission of Slovakia abroad, the diplomatic mission which accepted the application conducts a personal interview with the applicant for temporary residence or permanent residence for five years for the purposes of preliminary review of the application. The record of the interview is sent by the diplomatic mission to the competent alien police department together with its opinion on the granting of temporary or permanent residence, stating whether the granting of temporary or permanent residence is recommended or not, including applicable reasons. The meeting of the conditions is examined under the procedure on the granting of temporary residence for the purpose of family reunification, under which the applicant is required to submit documents proving the stated facts. The family relationship must be proven by registry documents; dependency, for example, by a medical certificate confirming that the applicant needs to be cared of by another person; by a document certifying that the applicant does not have other family members; by a document or statement issued on honour that the applicant does not have in his/her country of residence other family members who could provide for him/her; documents proving that the sponsor financially supports the applicant; etc.

**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:

The applicant is required to present documents proving accommodation in Slovakia, including extract from the deed of ownership of the given real property. It is possible to determine from the deed of ownership whether the given type of real property can be used for permanent housing and whether its surface area meets the minimum standards.<sup>25</sup> In the case of doubt, the alien police officer have the right to examine directly on the spot the meeting of the minimum legal health and safety standards established for real properties designed for housing.

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

The obligation of each third-country national with residence in Slovakia is to have health insurance in Slovakia or to have insurance covering medical costs in Slovakia during their stay. If the third-country national has no access to public health insurance, s/he is obliged to purchase the respective product offered by commercial insurance companies. The access to public health insurance and the obligation to have a public health insurance (the exceptions are defined in Article 3(2) of Act No. 580/2004 Coll. on Health Insurance and on changes and amendments to some acts) applies to all third-country nationals with permanent residence in Slovakia, third-country nationals with temporary residence who are employed, do business, students studying in Slovakia under international agreements and unaccompanied minors. The public health insurance scheme also includes persons granted asylum and some

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<sup>25</sup> Decree No. 259/2008 Coll. on the details and requirements for interiors of buildings and on minimum requirements for lower-standard flats and accommodation facilities in the wording of Decree No. 210/2016 Coll.

other persons pursuant to Article 3(3) and (4) of the Act on Health Insurance. The special healthcare system includes asylum applicants and beneficiaries of subsidiary protection in Slovakia. The healthcare of these persons is paid directly by the Ministry of Interior of the Slovak Republic. This does not apply to cases where such persons have public health insurance (e.g. on the grounds of 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 minimum income requirement for a full-aged natural person is EUR 2,377.08 (12-times the subsistence minimum amount)<sup>26</sup>.

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

The minimum income requirement for minors is half of the amount referred to above.

- The reference period over which this requirement is considered:

The meeting of the minimum income requirement by the applicant for temporary residence for the purpose of family reunification must be proven by his/her sponsor. The sponsor must have the given amount at the time of the submission of the application or prove that s/he is able to provide for each family member from his/her monthly income with an amount corresponding to the subsistence minimum (half of the subsistence minimum amount in the case of minors). In the case of an application for permanent residence, the minimum income requirement can also be proven by the family member himself/herself.

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

The sponsor can prove the ability to provide financial coverage to his/her family members with a labour contract or a document issued by the employer about the amount of his/her salary, indicating whether the sponsor's income will be sufficient in the future to ensure financial coverage of his/her family members.

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

No. The failure to meet the condition of sufficient financial coverage of the stay and accommodation is a ground for the rejection of the application for temporary residence. Another ground for the rejection of the application is the fact that the secured accommodation in Slovakia fails to meet the minimum legal requirements.

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

The requirements are verified within the process of making a decision on granting residence and must be met throughout the alien's stay in Slovakia. If it is found out at a later stage that the third-country national fails to meet the requirements for being granted residence, the alien's residence can be cancelled.

**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.

N/A

**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)?<sup>27</sup>

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<sup>26</sup> The minimum subsistence amounts are always reviewed as of 01 July of the regular calendar year.

<sup>27</sup> This 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).

**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?**

All applicants for temporary residence for the purpose of family reunification or permanent residence over 14 years of age are required to prove no criminal records under the procedure. No criminal records are proven by an extract from the criminal records of the country whose citizen the applicant is, and of the country in which the applicant stayed for more than 90 days during six consecutive months in the course of the last three years. During the procedure according to Act on Residence of Aliens, persons granted asylum and beneficiaries of subsidiary protection are not required to prove no criminal records by an extract from the criminal records of the countries from which they escaped from persecution or serious injustice; instead, they are required to make a statement of honour about having no criminal records in that country.

Threat to public health is verified after the granting of temporary or permanent residence on the basis of a medical certificate issued by a doctor specialised in infectology, confirming that the third-country national does not suffer from a disease threatening public health. The medical certificate must be presented not later than 30 days from the granting of residence. Failure to do so can result in the cancellation of the alien's temporary or permanent residence.

**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?<sup>28</sup>**

A minor child is a person under 18 years of age. A minor cannot be granted residence in Slovakia if his/her parent who was not entrusted with the custody of the minor and who has the right to meet him/her does not give his/her consent to the family reunification in Slovakia. The prior written consent of the minor must always be given to the granting of asylum or subsidiary protection for the purpose of family reunification with the minor.

**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?**

Family ties are examined under the procedure on granting residence on the basis of registry documents. Other proof of family ties can be the basis only for the granting of temporary residence for the purpose of family reunification with a person granted asylum in the case that the application was submitted not later than three months from the granting of asylum.

**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)?

In general, the duration of the procedure deciding on an application for temporary residence for the purpose of family reunification is 90 days. A shortened period of 30 days is in place in the case of a spouse or a minor child of a third-country national who represents or works for a foreign investor in Slovakia and who is the citizen of Member State of the Organisation for Economic Co-operation and Development or who represents or works for an important foreign investor in Slovakia.

Permanent residence for five years and permanent residence for an indefinite period of time is granted within 90 days from the submission of the full application. An accelerated procedure of 30 days applies in the case of a third-country national who is the spouse or child of a third-country national who represents or works for an important foreign investor in Slovakia with permanent residence for five years or with permanent residence for an indefinite period of time.

The procedure deciding on granting residence to a child born in Slovakia or in another EU/EEA Member State or in the Swiss Confederation to a third-country national with residence in Slovakia takes 30 days from the submission of all documents.

In particularly complicated cases, the body of appeal can extend these 90-day and accelerated 30-day procedures by a maximum of 30 days. This refers to cases where the applicant has problems with obtaining some missing documents from abroad, which is quite time-consuming.

The procedure under which the Migration Office of the Ministry of Interior of the Slovak Republic decides on asylum takes 90 days; this period can be extended.

- Average duration of the procedure in practice?

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<sup>28</sup> Art. 5 of Directive 2003/86/EC.

In practice, residence is granted immediately upon meeting all the requirements, i.e. before expiry of the applicable periods.

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

No, no measures have been taken to shorten processing times, as the Bureau of the Border and Alien Police of the Police Force Presidium considers them optimal.

**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.

Practical challenges in the procedure on granting temporary residence for the purpose of family reunification are faced mainly in the case of minor children of third-country nationals from divorced families, where the consent to family reunification of the parent who was not entrusted with the custody of the child and who has the right to meet the child is also required. It is often a problem to obtain such consent. In sporadic cases, statements of honour have been accepted (for example, where the biological father did not manifest any interest in the child for longer periods of time and it was not possible, in spite of maximum efforts by the parent and state authorities, to find out his/her place of residence abroad, which made it impossible to obtain the consent).

**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).

N/A

#### Section 5: Access to rights following family reunification

*This section of the Synthesis Report will provide a comparative overview of the rights that follow on from family reunification in the (Member) States, notably access to education, employment, vocational guidance and training, and right to apply for autonomous right of residence. The aim of this section is to report on measures available specifically to **persons admitted for the purpose of family reunification** and not duplicate information covered in other EMN studies on general integration measures. **If applicable, please distinguish to what extent any of the provisions apply to family members of persons belonging to all groups of migrants, or only certain groups (e.g. family members of refugees, BSPs, workers, students, etc.). If the provisions vary for family members of persons belonging to different groups of migrants, please describe the variations.***

**Q18. Are family members entitled (in the same way as the sponsor) to access the following rights<sup>29</sup> in your (Member) State** (please also comment on any planned changes in the national legislation/ policy/ practice):

**a. Access to education?** Y/ N

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.

Yes. Basic and more advanced Slovak language courses are organised for foreigners' children with the aim to remove the language barriers. Apart from supporting language training of foreigners' children at schools, there are no other education programmes specifically targeting other family members or any other specific programmes to help overcoming the language barrier upon foreigners' access to education.

Family members of persons granted asylum and beneficiaries of subsidiary protection for the purpose of family reunification are provided with language courses not on the basis of their residence status, but in connection with the asylum or subsidiary protection granted for the purpose of family reunification.

The Migration Information Centre of the International Organization for Migration (IOM) organises free, low-threshold Slovak language courses for third-country nationals under the project financed from the state budget and the Asylum, Migration and Integration Fund.

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<sup>29</sup> 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).

**b. Access to employment and self-employed activity?**<sup>30</sup> Y/ N

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.

Access to employment is unlimited after one year from the granting of temporary residence for the purpose of family reunification. During the first year, the family member has the right to work in Slovakia only on the basis of a special work permit. Only family members of Blue Card holders and family members of aliens with temporary residence for the purpose of research and development can work without limitation right after being granted temporary residence for the purpose of family reunification.

The possibility to carry out self-employed activity is excluded only in the case of family members who were granted temporary residence for the purpose of family reunification in Slovakia on the grounds that they are not able to provide for themselves in their home country, i.e. dependent unmarried children of the sponsor or of his/her spouse over 18 years of age who cannot provide for themselves due to a long-term adverse health condition or the parent of the sponsor or of his/her spouse who is dependent on the sponsor's care and lacks appropriate family support in his/her country of origin.<sup>31</sup> Other family members have the right to carry out self-employed activity after being granted temporary residence.

Family members granted permanent residence have access to employment and self-employed activity after being granted permanent residence.

Family members granted asylum or subsidiary protection for the purpose of family reunification have the right to work and carry out self-employed activity without limitation after being granted asylum or subsidiary protection.

**c. Access to vocational guidance and training?** Y/ N

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.

No, there are no state programmes in Slovakia in this field targeting specifically family members of third-country nationals, except for programmes for persons with granted asylum or subsidiary protection for the purpose of family reunification. These programmes, however, are not related to the residence status of aliens, but to the asylum or subsidiary protection granted for the purpose of family reunification.

In general, vocational courses and training are organised for third-country nationals mainly by non-governmental organisations. The IOM Migration Information Centre provides free job counselling to third-country national in the framework of a project financed from the state budget and the Asylum, Migration and Integration Fund, and provides them with financial contributions to language, vocational and re-training courses.

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

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

Yes. In general, the cessation of the purpose of residence, which is divorce or the reaching of 18 years in the case of minor children, constitutes a ground for the cancellation of residence. Residence is not cancelled only if the consequences of the cancellation of temporary residence were unreasonable given the reason for cancellation of temporary residence mainly with respect to the private and family life of the third-country national. The Act on Residence of Aliens leaves space for individual assessment of the circumstances of each particular case. Furthermore, if a third-country national who was granted temporary residence for the purpose of family reunification and whose marriage terminated and his/her continuous temporary residence lasts at least three years or who reached the age of majority submits an application for change of the purpose of residence at the police department within 30 days from the issue of the death certificate or from the effective date of a divorce or from reaching the age of majority, his/her residence is considered authorised until a decision is made on such application.

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<sup>30</sup> 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.

<sup>31</sup> Article 27(2)(e) and (f) of Act No. 404/2011 Coll. on Residence of Aliens and on changes and amendments to some acts, as amended.

Where a family member was granted permanent residence and a fact occurred that would under other circumstances lead to the cancellation of permanent residence, such residence is not cancelled if:

- a) the consequences of the cancellation of permanent residence were unreasonable given the reason for the cancellation of permanent residence, mainly with respect to the private and family life of the third-country national;
- b) s/he was granted permanent residence for at least three years and the person s/he was joining for permanent residence has died, or
- c) after reaching the age of 18 years s/he runs a business, is employed, studies in Slovakia or carries out special activities or research and development in Slovakia.

A third-country national who was granted temporary residence for the purpose of family reunification can at any time apply for a change of the purpose of temporary residence and become independent from his/her sponsor. Furthermore, after five years of legal and continuous residence in Slovakia, a third-country national can apply for long-term residence under the Council Directive 2003/109/EC concerning the status of third-country nationals who are long-term residents.

**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.? Y/ N  
If yes, please specify what such access entails in practice in your (Member) State.

Family members have access to most state social benefits, mainly family benefits. After five years of legal and continuous residence in Slovakia, they have the possibility to obtain long-term residence, and after eight years of continuous permanent residence or ten years of any continuous residence they can obtain the Slovak citizenship. A person granted asylum can apply for Slovak citizenship if s/he has been granted asylum at least four years immediately prior to the application for Slovak citizenship.

**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 persons granted asylum and beneficiaries of subsidiary protection have two options for obtaining residence in Slovakia. The first one is to obtain asylum or subsidiary protection for the purpose of family reunification. Family members (spouse<sup>32</sup>, children under 18 years of age and parents, and possibly other persons – minors granted asylum or beneficiaries of subsidiary protection entrusted to the custody<sup>33</sup>) are granted asylum or subsidiary protection for the purpose of family reunification without examining any other circumstances. From the point of view of the residence status, the granting of asylum for the purpose of family reunification has the nature of permanent residence, and the granting of subsidiary protection for the purpose of family reunification has the nature of temporary residence in Slovakia.

Another option (other than the granting of asylum or subsidiary protection for the purpose of family reunification) is the possibility to apply for temporary residence for the purpose of family reunification with the sponsor. This option is more demanding in terms of administration, as the family member is required to submit all documents proving the purpose of residence, proof of no criminal records, financial coverage of the residence and accommodation in Slovakia. The only exception is if a third-country national submits the application for temporary residence for the purpose of family reunification with a person granted asylum within three months from the granting of asylum. In this case, the applicant is only required to present a valid travel document and a document certifying the family relationship or any other proof of this relationship.

Unlike in the case of asylum or subsidiary protection for the purpose of family reunification, there is no legal right to temporary residence for the purpose of family reunification, i.e. if the alien fails to meet the requirements, s/he shall not be granted residence. On the other hand, temporary residence can be requested by a wider group of family members.

In both cases, the residence of the family member depends on the sponsor's status. In the case of cessation/cancellation of the sponsor's international protection, the asylum or subsidiary protection of the family

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<sup>32</sup> It is necessary that the marriage existed at the time the person granted asylum/beneficiary of subsidiary protection left the country of origin, while also requiring the sponsor's written consent.

<sup>33</sup> The consent of the minor sponsor is required.

member granted on the ground of family reunification shall cease to exist. Temporary residence for the purpose of family reunification shall also be cancelled if the consequences of the cancellation of temporary residence are unreasonable given the reason of the cancellation of temporary residence, mainly with regard to the private and family life of the third-country national. A family member of a person granted asylum or of a beneficiary of subsidiary protection whose marriage terminated and his/her continuous temporary residence lasts for at least three years, or reached the age of majority can apply for a change of the purpose of residence at the police department within 30 days from the issue of the death certificate or of the effective date of a divorce or the reaching of the age of majority. In such case, his/her residence in Slovakia is considered legal until a decision on his/her application has been issued.

In terms of rights, asylum for the purpose of family reunification has the nature of permanent residence, i.e. it is associated with a wider scope of rights compared to temporary residence obtained on the basis of subsidiary protection for the purpose of family reunification or temporary residence for the purpose of family reunification with a person granted asylum/beneficiary of subsidiary protection.

Obtaining temporary residence for the purpose of family reunification is associated with the need to submit a number of documents, which is financially more demanding than obtaining asylum or subsidiary protection for the purpose of family reunification, even though the application as such is exempt from the administrative fee. A fee of EUR 4.50 only applies to the issue of the residence document. Persons granted asylum or beneficiaries of subsidiary protection for the purpose of family reunification are also exempt from this fee.

**Q20. a. Do any conditions apply to sponsors and/ or family members after admission for the purpose of family reunification in your (Member) State? Y/N**

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

Yes. Family members are required to present to the police department, not later than 30 days from receipt of the residence document, a document certifying health insurance and a medical certificate confirming that they do not suffer from a disease threatening public health. The failure to present a medical certificate confirming that the third-country national who has been granted temporary residence for the purpose of family reunification or permanent residence (for family reunification) within the set deadline represents a ground for the obligatory procedure of the police department leading to the cancellation of this residence. However, the Act on Residence of Aliens, negates this procedure in cases where the police department comes to the conclusion under the procedure on the cancellation of residence that the consequences of the cancellation would be unreasonable given the reason of the cancellation of residence, mainly with regard to the private and family life of the third-country national.

- Does not fulfilling one of these conditions constitute a ground for non-renewal or withdrawal of the residence permit?<sup>34</sup> Y/ N
  - If yes, how are individual circumstances and interests<sup>35</sup> taken into account?

The failure to present a medical certificate confirming that the alien does not suffer from a disease threatening public health constitutes a ground for cancellation of temporary or permanent residence for five years.

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

The failure to obtain health insurance at the latest within three working days from receipt of the residence document and the failure to prove that the third-country national has a health insurance constitutes an offence for which a fine of up to EUR 1,600 can be imposed.

**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.

No major challenges have been observed in the application practice in this field that would require the adoption of radical measures or revision of Council Directive 2003/86/EC on the right to family reunification.

**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**

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<sup>34</sup> Article 16 of Directive 2003/86/EC

<sup>35</sup> Article 17 and Article 24 of the Charter

**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).

A third-country national with temporary residence or permanent residence for the purpose of family reunification has access to education (can study), business and employment under comparable conditions as Slovak citizens (within the scope of the conditions established by laws with respect to business or employment services).

## 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;
- 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)? Y/ N

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

No.

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

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.<sup>36</sup>

No.

## 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.

N/A

Please provide your answer by completing the Excel document inserted as an object below and sent separately with this Common Template.

Please do not here include the above-mentioned Eurostat data in Section 7 (first part of this Template), as this information is available publically and can therefore be analysed centrally for the Synthesis Report.

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<sup>36</sup> 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/>



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