Panel Meeting on Family Reunification

26-27 November 2015

Tbilisi, Georgia
EXECUTIVE SUMMARY

Representatives of the EU Member States, Eastern Partnership countries, academia and international organizations gathered in Tbilisi to compare their policies, procedures and approaches to family reunification. The two-day meeting of the Eastern Partnership Panel on Migration and Asylum took place on 26-27 November 2015 and was co-hosted by Georgia and the Czech Republic.

Family reunification is a topic which is often left out of attention, but today it appears to be highly relevant considering current European migration crisis. Many asylum seekers receive refugee status and, thus, obtain the right to family reunification. It is a responsibility of every state to strike a balance between securing the right to reunite with the family and immigration control.

The experts dealing with family reunification at different levels, such as case workers, researchers or policy makers, had a lively discussion on approaches applied by states and practices used on daily basis.

Ms. Zvezda Vankova from the Migration Policy Group and Ms. Helen Wray from the Middlesex University have contextualized the concept of family reunification, placing it within main international legal context and policy acts and explaining EU approach to the issue. UNHCR underlined its very liberal attitude to family reunification, while UNICEF focused on the importance of the support services, inter alia for children.

A variety of national practices was shared throughout the meeting. Procedural aspects of family reunification were covered in presentations of the participants from Georgia, Lithuania, and Moldova. Sweden highlighted recent changes in the national legislation tightening family reunification regulations. An interesting practical angle of family reunification was presented by Ms. Barbara Wegelin, practicing lawyer from the Netherlands. Provoking case studies sparked a dynamic debate on the need for pragmatic balance between the legal requirements for family reunification (for example: income, language) and the need of the families that want to reunite in the Netherlands.

Finally, the draft Work Programme of the Panel for 2016 was presented by the participating countries and Panel members.
Mr. Robert Rybicki, DG Home Affairs, European Commission, welcomed all the participants of the meeting and underlined that family reunification is often neglected as a subject. Considering the current migration crisis in the EU and the number of people who received refugee status, the issue of family reunification gains significance. Many of the refugees maintain their family ties, so asylum and migration systems should be prepared to deal with family reunification. This is also an opportunity for states to revise their family reunification policies in terms of priorities, resources and flexibility.

Ms. Sofo Samushia, State Minister’s Office for EU and EU Atlantic Integration, Georgia, greeted the meeting participants and highlighted the importance of the EaP countries engagement in discussions on family reunification, both bilaterally and multilaterally.

Ms. Jana Novotná, Ministry of Interior of the Czech Republic, welcomed speakers, thanking everyone for coming, and emphasized the significance of family reunification in terms of current migration crisis in Europe.

Session I. European and International Legal Framework of Family Reunification
Moderator: Mr. Marek Lisý, Ministry of Interior of the Czech Republic

Ms. Zvezda Vankova, Migration Policy Group (MPG), delivered a presentation on family reunification for third-country nationals in EU law. The right to family reunification is represented in a number of internationals treaties, including the European Convention on Human Rights, providing not for the right of entry for family members, but for the right to be protected from removal. The Family Reunification Directive and guidelines to it go further, providing for the right of entry and residence of nuclear family members. In the European law the concept of family reunification includes not only relationships formed before the entry, but also those formed after the entry. As a general rule, the requirements for family reunification should not create obstacles for family reunification. Overall principles of family reunification should consider availability of information, best interest of the child, fighting abuse and fraud, individual assessment, as well as the right to legal challenge. MIPEX provides quick reference guide, providing country reports on integration. Please see the presentation “Family Reunification for Third-Country Nationals in EU Law”

Ms. Helen Wray, Middlesex University, spoke on family reunification and human rights. Family reunification concept incorporates actual reunification of family members, formation across national borders, admission and expulsion cases. Although the Universal Declaration of Human Rights provides for the right to family life, it does not consider the aspect of border crossing for family reunification, covering rather citizens than migrants. When the European Convention on Human Rights (ECHR) came into force, family reunification was invisible as a political issue. Family life presumed to exist between married partners and parents and minor children, while for other types of relatives, such as parents and adult children, the added dependency should be shown in addition to usual emotional ties. The European Court for Human Rights was slow to recognize applicability of the Convention to family reunification. Please see the presentation “Family Reunification and Human Rights”

Mr. Mark Lloyd Richmond, International Organization for Migration (IOM), Mission in Georgia, presented family reunification procedure and concomitant challenges from the point of view of a practitioner. An inclination to reunite families is complicated by cases of fraud which is part of everyday work. A lot of pressure is put on decision makers, as presence of fraud develops a more skeptical attitude, while a situation of understaffing lowers the quality of decisions. A proper identity management is essential for a practitioner since asylum claims from the countries with broken governments are supplemented with unknown types of documents. Decision whether to grant asylum
or not affects not only the applicant, but also people related to him/her, so this should be taken into account.

**Ms. Olga Kulebyakina**, International Organization for Migration (IOM), Mission in Ukraine, presented the discussion paper, developed based on results of the questionnaires disseminated among the participating countries prior to the meeting. A total of 17 countries provided their input. Although every country has restrictive elements within the national immigration system, ensuring a certain degree of flexibility is important in order to uphold the right to family life of persons legally residing apart from their families. As a general rule, EU MS and EaP countries allow family reunification only of members of a nuclear family, meaning minor children and spouses. At the same time, many of the participating states allow family reunification of dependent adult children and incapable parents under certain circumstances. Some states also provide opportunities for family reunification of different categories of migrants, such as students, labour migrants as well as refugees and beneficiaries of international protection. In order to strengthen the system against the abuse, some specific requirements are set by states. These include availability of sufficient means to cover basic needs, proper accommodation, health insurance and requirements regarding certain duration of a sponsor’s legal residence in the destination country. *Please see the presentation “Family Reunification: National Approaches and Practices in the EU and EaP Countries”*

**Discussion**

International Center for Migration Policy Development (ICMPD) raised a question about EU MS that have the most restrictive family reunification policies. The **MPG** answered that Italy, the United Kingdom and Denmark are the most restrictive in terms of family members who have access to family reunification, the procedure itself and rights they get after the reunification. Hungary asked about the ways to prevent marriages of convenience and Ms. Helen Wray from the *Middlesex University* responded that in the United Kingdom a short-term residence permit does not allow for marriage within the country. **Sweden** mentioned current changes in immigration policy due to the refugee crisis, which will result in more restrictive measures and increased requirements for family reunification. **MPG** emphasized that MIPEX studies are now also applicable for the EaP countries. **Georgia** asked about the expulsion procedures in case when one of the parents is residing legally in the country and another one is not. **The Netherlands** replied that in case there is a threat in the country of origin, the principle of non-refoulement is applied, in case there is no threat – the person is returned to his/her country of origin.

**Session II. Different Forms of Family Reunification**

Moderator: Ms. Nino Meskhi, Ministry of IDP’s, Refugees and Accommodation, Georgia

**Ms. Inna Borisevich**, the UN Refugee Agency (UNHCR), spoke on family reunification of refugees and persons under subsidiary protection. UNHCR has very liberal policy towards family reunification. Family reunification is an important element for successful integration. Separation of family entails devastating consequences on physical, psychological and social well-being of refugees. Family reunification mechanisms should be swift and efficient to bring family members together as early as possible. Practical obstacles to family reunification include restrictions in scope and time, limited family definition and difficulties in tracing relatives, insufficient information about procedures, difficulties accessing embassies to lodge an application, difficulties in documenting family links, problems securing travel documents from insecure areas, and lack of funds for travel and meeting integration requirements. *Please see the presentation “UNHCR Position on Refugee Family Reunification”*

**Mr. Levan Kokaia**, Ministry of IDP’s, Refugees and Accommodation, Georgia, presented aspects of family reunification facilitation in case of internally displaced persons (IDPs). There are 86 557 IDP families registered in the database. The average family consists of 3.1 persons. The divorce rate in IDP families is about 30 per cent. According to Georgian legislation, an IDP family is a group of people holding IDP status (non-IDP may also be a family member) affiliated by consanguinity or only co-residence, residing in a separate area of residence, who jointly implement household activities.
Ministerial order determines criteria and procedures for allocating durable housing solutions for IDP families, taking into account the number of family members in relations to the space of accommodation. 

Please see the presentation “IDPs from the Occupied Territories”

Mr. Erik Rehó, Swedish Migration Agency, delivered a presentation on family reunification for labour migrants and the international and EU framework for securing family life for labour migrants. Consideration of family is important in labour migration as family unity is a prerequisite for long-term commitment and integration in contrast to short-term or seasonal employment. Currently Sweden is greatly affected by the refugee crisis which results in changes to migration policies. In Sweden, family reunification of labour migrants requires separate application for residence permit from each family member and does not set income requirements. In cases where the employment is terminated and no new application is lodged within a period of three months, the work permit is revoked. Work permit of family members cannot be withdrawn automatically, but also cannot generate a permanent residence permit. Family members of former asylum seekers who have been granted a residence permit can be granted a residence if they themselves have been asylum seekers and have received a negative decision which has become final. 

Please see the presentation “Labour Migration and Family Unity”

Ms. Jaba Nachkebia, Child Protection and Social Welfare specialist, UNICEF, presented on the rights of children within the family reunification procedure. Convention on the Rights of the Child suggests that participating countries shall ensure that a child is not separated from his/her parents against their will. It also obliges states to protect and assist refugee children and to trace their family members to obtain information necessary for reunification of those children with their families. With relation to current refugee crisis, one of the priority areas of intervention that is based on UNICEF’s actual assessment of the overall situation, as well as in specific countries, includes technical assistance to support and protect unaccompanied and separated children and strengthen family tracing and reunification efforts in the best interests of children. UNICEF has established child friendly spaces in the Former Yugoslav Republic of Macedonia, Serbia and Croatia, and mobile child friendly units in Croatia which are ready to travel to where the need is. 

Please see the presentation “Family Reunification and the Rights of Children”

Discussion

The Netherlands asked Sweden if a labour migrant’s permit got cancelled, will the dependent family member’s permit be cancelled too? Sweden replied that current policies are liberal, and decision on the dependent family member will not be reformed. Sweden raised a question concerning DNA testing with regard to Somali refugees and their family members. UNHCR highlighted that there are guidelines on application of DNA testing, according to which it should be used in cases of clear evidence of fraud or as an additional method. Ms. Helen Wray from the Middlesex University added that DNA testing is not always relevant, as family relations are not always formed on blood.

Study visit to Public Service Hall took place after the first day of the meeting, where the participants had a chance to see how the system “one-stop shop” works in practice.

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Session III. Procedural and Practical Aspects of Family Reunification
Moderator: Mr. Irakli Lomidze, Ministry of IDP’s, Refugees and Accommodation, Georgia

Mr. Maksim Afanasjev, Ministry of the Interior of the Republic of Lithuania, delivered a presentation on national procedures of family reunification. Lithuanian citizens, aliens with permanent residence permit and those who have lived in Lithuania for at least two years hold the right to family reunification. Aliens who have no right for family reunification include those who have submitted applications for asylum
and a final decision is not taken, those who have been granted temporary protection, and those who have been granted asylum, if their family members would not be granted asylum. The documents for the issuance of a temporary residence permit must be submitted either to diplomatic missions abroad or to migration services in the area where an alien intends to reside. An alien’s application for the issuance of the temporary residence permit must be considered no later than within four months from the moment of its lodging. The alien is issued a temporary residence permit for the same period as the period for which the temporary residence permit has been issued to sponsor. Please see the presentation “Application Procedures for Family Reunification in Lithuania”

Ms. Dali Bregvadze, Ministry of Internal Affairs, Georgia, briefly reported on the recent legislative developments related to foreigners. According to the new legislation, adopted in 2014, the Ministry of Internal Affairs (MIA) is in charge of counteraction to irregular migration and is empowered to execute expulsion of irregular migrants. It is up to the MIA to take decision about expulsion, but the court has a final say. In case of a decision on expulsion, a person in question will be fined and given maximum of 30 days to leave the country voluntarily. Decision on expulsion can be appealed. A foreign citizen subject to expulsion will be banned from entry into Georgia for the period from two to five years.

Ms. Ana Nakashidze, the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees, Georgia, continued with presentation on national practices of family reunification in cases of asylum. According to national asylum legislation, family reunification is a legal entrance of family members of the refugee or a person with humanitarian status to Georgia with the purpose of family reunification. A person with refugee status can be granted the right to family reunification within one year after submitting the application. A person with humanitarian status may be allowed to reunite with his/her family. A family member of the refugee or humanitarian status holder may be granted protection, even if he/she does not meet the requirements of the similar protection. Time limit for family reunification is one year for refugees and persons who received status of humanitarian protection. The draft law on international protection will introduce extended definition of family members and explicit description of the family reunification procedure. Please see the presentation “Procedural and Practical Aspects of Family Reunification in Asylum System of Georgia”

Ms. Ágnes Töttős, Ministry of Interior of Hungary, delivered a presentation on Hungarian experience of fighting marriages of convenience. Major forms of misuse or abuse of the family reunification procedure include marriage of convenience (between a non-EU national and an own national or between a non-EU national and an EU citizen from another EU MS) and false declaration of paternity (by a non-EU national for an EU citizen child or by an EU citizen for a non-EU national child). EU legal tools to fight marriages of convenience are the Council Resolution on measures on the combating of marriages of convenience and Handbook on addressing the issue of alleged marriages of convenience between EU citizens and non-EU nationals. In legal terms, marriage of convenience is a real marriage; in reality it does not constitute a family. Organized crime is often involved in setting marriages of convenience and EUROPOL helps in fighting it through the mechanism of the Joint Investigation Teams. In Hungary marriage of convenience is criminalized since 2012. Please see the presentation “Fighting Marriages of Convenience: A Problem to tackle at National and International Level”

Discussion

Hungary asked for clarification regarding Georgian national family reunification procedures. Georgia added that there is no time limit for refugees to apply for family reunification. Ms. Helen Wray from the Middlesex University asked Georgia regarding possible developments of the family reunification system. Georgia answered that currently not many people apply for family reunification and all the procedures are exercised properly. Hungary was asked whether there is a way to differentiate a marriage of convenience from just a poor marriage. In this regard Hungary replied that there is no sole indicator that can be used for this, but scam can be detected based on a set of indicators. The Netherlands added that even a list of indicators should be applied carefully, as marriage should be examined in its cultural setting.
Ms. Ekaterine Odisharia, Public Service Development Agency, Citizenship and Migration Unit, Georgia, briefly outlined national requirements for family reunification, including the list of documents required for the submission of the application. These documents include valid travel document, proofs of legal residence and relation to sponsor, valid residence permit and proofs of sufficiency of funds.

Ms. Nato Gagnidze, Innovation and Reform Centre (IRC), Georgia, spoke on reintegration practices in relation to reunited families. Family reunification is not sufficient without adequate support of integration and appropriate living conditions. At policy level IRC operates as a consultant member of the State Commission on Migration Issues, provides recommendations on integration and migrants at risk, and screens legislation for needs of amendments with regard to the integration needs of vulnerable groups. At operational level IRC provides legal consultations to migrants, supports them in obtaining documents and throughout naturalization and status determination process. At grass-root level IRC works with host communities and migrants to build ties and create enhancing integration environment. It also ensures continuous monitoring and occasional studies of attitude of migrants and host communities towards each other and migration as a whole, for addressing emerging challengers. Please see the presentation “Successful Integration of Reunited Families”.

Ms. Barbara Wegelin, Everaert Advocaten, presented on integration requirements in family reunification in the Netherlands. In general, Dutch policy is perceived as strict on issues of integration and income/resources requirements. Accommodation requirement and sickness insurance requirement are not applicable to family reunification in Dutch legislation. Additional requirements include cohabitation of the family after arrival, applying for long-term visa from abroad and passing an integration exam prior to application. According to the income requirement, the income must be sufficient, sustainable/stable and independent. Exemptions to integration and income requirements exist, but they are applied restrictively. Income/integration is not required from family members of refugees if reunification is applied for within three months. An issue of reverse discrimination of own country nationals exists, as Dutch citizens must meet stricter requirements for family reunification than other EU citizens based on the Directive 2003/86/EC. Please see the presentation “Integration and Income Requirements in Family Reunification Procedures”.

Discussion
Ms. Helen Wray from the Middlesex University stressed that the requirement to pass the language test before actual arrival should be revised. The Netherlands stressed that generally consideration of individual circumstances versus set requirements is really problematic in practice. In addition, it was mentioned that the income requirement legal norms have changed and now it is not treated as a mandatory ground for rejection.

Ms. Tatiana Ciumas, Bureau for Migration and Asylum, Moldova, delivered a presentation on integration of reunited families. Integration support offered to reunited families include socio-cultural adaptation sessions; state language training courses; information and counseling on how to access labour market, medical services and social protection measures; guidance and professional training services to facilitate the economic integration in conjunction with the capabilities and needs of the labour market; integration programs (only for beneficiaries of international protection). As a rule, integration assistance is offered after a foreigner receives the residence permit or any form of protection. Main components of the integration package incorporate access to state language courses, employment, social security system, medical services, education, housing in accommodation center and financial assistance. Integration centers are designed to be created in big cities of the country: Chisinau, Balti, and Cahul. Please see the presentation “Integration Aspects in the Context of the Republic of Moldova”
General Panel Business
Moderator: European Commission

Mr. Erik Rehó, Swedish Migration Agency, outlined Panel Work Programme for 2016. The first Panel meeting will take place in Chisinau in March/April and will be devoted to irregular migration, co-hosted by Moldova and Poland. The following expert meeting will touch upon resettlement and relocation of refugees. It will be organized jointly by Sweden and Armenia and will take place in Stockholm in May/June. The expert meeting on information technology in migration management is to be held in Riga in October/November with Latvia and Ukraine acting as co-hosting countries. The year will be finalized by the Panel meeting on migration strategies in Minsk in November/December. Belarus and Lithuania will be co-hosts for this meeting.

Ms. Olga Kulebyakina, International Organization for Migration (IOM), Mission in Ukraine, noted that all information about previous and planned meetings could be found at the Panel website www.eapmigrationpanel.org and encouraged participants to use it as a tool for information exchange.

Closure

Mr. Robert Rybicki, DG Home Affairs, European Commission, thanked all the speakers and guests for the lively discussions and useful insights. He underlined that effective instruments for making decisions in cases of family reunification should be developed and all circumstances have to be carefully looked at.

Mr. George Jashi, Secretariat of the State Commission on Migration Issues, expressed gratitude to the meeting participants on behalf of the State Migration Commission. He underlined Georgia’s current developments in the sphere of new migration strategy and priorities. The unified migration analytical system has been designed and will be presented in the nearest future.

Mr. Marek Lisý, Ministry of Interior of the Czech Republic, thanked the meeting organizers and participants and highlighted the space for networking and exchange of experience that the Panel offers to its participants. He also stressed willingness of the Czech Republic to continue cooperation with the participating countries.

All presentations mentioned in this report, as well as all the material related to the meeting, can be found at the Panel website www.eapmigrationpanel.org