

TRANSLATION OF THE CRUCIAL PROVISIONS
OF THE DIRECTIVE FAMILY REUNIFICATION EC/2003/86

by Panagiota-Nayia BARMPALIOU
nayia.barmpaliou@yahoo.com

General provisions

Article 3, §1:

1. This Directive shall apply where the sponsor is holding a residence permit issued by a Member State for a period of validity of one year or more who has reasonable prospects of obtaining the right of permanent residence, if the members of his or her family are third country nationals of whatever status.

Translation: SECTION 18KI (1)

The provisions of Articles 18A until 18AH of the present Law are applied in the cases where the sponsor is a holder of residence permit which was issued under the present Law or under relevant regulations, of at least one year duration, who has reasonable prospects of obtaining the right to permanent residence in the Republic, if his family member(s) are third-country nationals of whatever status.

Family members

Article 4, §1:

1. The Member States shall authorise the entry and residence, pursuant to this Directive and subject to compliance with the conditions laid down in Chapter IV, as well as in Article 16, of the following family members:

- (a) the sponsor's spouse;
- (b) the minor children of the sponsor and of his/her spouse, including children adopted in accordance with a decision taken by the competent authority in the Member State concerned or a decision which is automatically enforceable due to international obligations of that Member State or must be recognised in accordance with international obligations;
- (c) the minor children including adopted children of the sponsor where the sponsor has custody and the children are dependent on him or her. Member States may authorise the reunification of children of whom custody is shared, provided the other party sharing custody has given his or her agreement;

- (d) the minor children including adopted children of the spouse where the spouse has custody and the children are dependent on him or her. Member States may authorise the reunification of children of whom custody is shared, provided the other party sharing custody has given his or her agreement.

The minor children referred to in this Article must be below the age of majority set by the law of the Member State concerned and must not be married.

Translation: SECTION 18A (1) (α - δ) and 18A (2)

(1) The Director shall authorise for reasons of family reunification the entry in the Republic and the residence in the areas of the Republic controlled by the Government, under reservation of compliance with the conditions laid down in Articles 18ΑΒ, 18 ΑΓ and 18ΑΖ of the present Law, of the following members of the family:

- (a) the sponsor's spouse, under the reservation that the marriage occurred at least one year before the submission of the application for the family reunification;
- (b) the minor children of the sponsor and of his/her spouse, including children adopted in accordance with a decision taken by the competent authority in the Republic, or with a decision of another country on the recognition of adoption, or with a decision automatically enforceable due to international obligations of the Republic;
- (c) the minor children, including adopted children of the sponsor, as defined in paragraph (b) above, when the sponsor has their sole custody and the children are dependent on him;
- (d) the minor children, including adopted children of the sponsor's spouse, as defined in paragraph (b) above, when the spouse has their sole custody and the children are dependent on him;

(2) The minor children referred to in the present Article must be below the age of eighteen years and must not be married.

Article 4, §2:

2. The Member States may, by law or regulation, authorise the entry and residence, pursuant to this Directive and subject to compliance with the conditions laid down in Chapter IV, of the following family members:

- (e) first-degree relatives in the direct ascending line of the sponsor or his or her spouse, where they are dependent on them and do not enjoy proper family support in the country of origin;

- (f) the adult unmarried children of the sponsor or his or her spouse, where they are objectively unable to provide for their own needs on account of their state of health.

Translation: without object

Article 4, §3:

3. The Member States may, by law or regulation, authorise the entry and residence, pursuant to this Directive and subject to compliance with the conditions laid down in Chapter IV, of the unmarried partner, being a third country national, with whom the sponsor is in a duly attested stable long-term relationship, or of a third country national who is bound to the sponsor by a registered partnership in accordance with Article 5(2), and of the unmarried minor children, including adopted children, as well as the adult unmarried children who are objectively unable to provide for their own needs on account of their state of health, of such persons.

Member States may decide that registered partners are to be treated equally as spouses with respect to family reunification.

Translation: without object

Article 4, §4:

4. In the event of a polygamous marriage, where the sponsor already has a spouse living with him in the territory of a Member State, the Member State concerned shall not authorise the family reunification of a further spouse.

By way of derogation from paragraph 1(c), Member States may limit the family reunification of minor children of a further spouse and the sponsor.

Translation: SECTION 18A (4)

In the event of a polygamous marriage, if the sponsor already has a spouse and/or children living with him in the Republic, the Director does not authorise the entry and residence of a further spouse and his/her minor children and of the sponsor.

Requirements for the exercise of the right to family Reunification

Article 7, §1: When the application for family reunification is submitted, the Member State concerned may require the person who has submitted the application to provide evidence that the sponsor has:

- (a) accommodation regarded as normal for a comparable family in the same region and which meets the general health and safety standards in force in the Member State concerned;
- (b) sickness insurance in respect of all risks normally covered for its own nationals in the Member State concerned for himself/herself and the members of his/her family;
- (c) stable and regular resources which are sufficient to maintain himself/herself and the members of his/her family, without recourse to the social assistance system of the Member State concerned. Member States shall evaluate these resources by reference to their nature and regularity and may take into account the level of minimum national wages and pensions as well as the number of family members.

Translation: SECTION 18AB (β-δ)

For the enjoyment of the right to family reunification, the sponsor must:

- (b) have accommodation regarded as normal for a comparable family in the same region and which meets the general health and safety standards, and ensures in general a dignified living;
- (c) have sickness insurance for himself and his family members, which covers the totality of dangers usually covered in insurance contracts for the nationals of the Republic;
- (d) have stable and regular resources which are sufficient to maintain himself and his family members, without him or his family members resorting to the social assistance system of the Republic; for this evaluation, the provisions of Article 18Θ of the present Law are applied in accordance.

Article 7, §2: Member States may require third country nationals to comply with integration measures, in accordance with national law.

With regard to the refugees and/or family members of refugees referred to in Article 12 the integration measures referred to in the first subparagraph may only be applied once the persons concerned have been granted family reunification.

Translation: without object

Article 8: Member States may require the sponsor to have stayed lawfully in their territory for a period not exceeding two years, before having his/her family members join him/her.

By way of derogation, where the legislation of a Member State relating to family reunification in force on the date of adoption of this Directive takes into account its reception capacity, the Member State may provide for a waiting period of no more than three years between submission of the application for family reunification and the issue of a residence permit to the family members.

Translation: SECTION AB (a)

For the enjoyment of the right to family reunification, the sponsor must:

(a) have stayed lawfully in the areas of the Republic controlled by the Government for at least a period of two years.

Entry and residence of family members

Article 13,§1:

1. As soon as the application for family reunification has been accepted, the Member State concerned shall authorise the entry of the family member or members. In that regard, the Member State concerned shall grant such persons every facility for obtaining the requisite visas.

Translation: SECTION 18AF (1)

As soon as the application for family reunification has been accepted, the Director shall authorise the entry of the family member or members and informs the locally responsible Consular authorities of the Republic in order to grant these persons every facility to obtain the possibly requisite visas.

Article 13, §2:

2. The Member State concerned shall grant the family members a first residence permit of at least one year's duration. This residence permit shall be renewable.

Translation: SECTION 18AF(2)

The Director grants to the family members a first residence permit of one year's duration, which is renewable.

Article 13, §3:

3. The duration of the residence permits granted to the family member(s) shall in principle not go beyond the date of expiry of the residence permit held by the sponsor.

Translation: SECTION 18AF (3)

Irrespective of the provisions of the above section, the duration of the residence permit granted to a family member shall not exceed in principle the date of expiry of the residence permit held by the sponsor.