Regulation of family reunification in the EU: Shaping the profile of Finland

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Abstract

This thesis touches upon the subject of family reunification, being highly problematised and politicised in the context of the EU member states. Demonisation of the matter, largely stems from the fact that reunification based on family ties is the main mode of entry onto the territory of the EU available for third country nationals. Intensified further in the context of the erupted European refugee crisis, family reunification is viewed by many EU member states as an area to create ever further restrictive regulations. The thesis explores how regulation over family reunification is currently being executed in the EU, and how nation states participate in its management. The work identifies that procedural sides of family reunification have further consequences for members of a reunited family, such as development of dependancy. Furthermore, the Finnish family migration legislation is being examined from the perspective of possible ‘window of opportunity’ for deepening restrictions, implied by the present political discourse within the country.
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**Personal note**

As a third country national, granted a right to live and work in a EU country - Belgium - due to a civil union with a Belgian citizen, I would like to admit that this work became very personal and somewhat emotional to me. While choosing a topic of family reunification some years ago during my studies in Finland, I could not imagine that in the near future the matters discussed in the thesis would be a reflection of my own life. In Russian we have a saying that can be translated as ‘how you name a boat is how it will sail’, which is similar to the English expression ‘names shape your destiny’. And at the risk of sounding too deterministic, sometimes I feel that the choice of the topic ironically intertwined with a course of my life. With this respect, the undertaken work helped me to better understand my own rights, position and opportunities not just within Belgium, but within the whole EU structure. It helped to explain all those feelings, emotions and fears that I had been experiencing at times and to learn that I was not alone with them, and in fact, they were all subject to academic research. All in all, it became very insightful for me both in academic and personal sense. That being said, after this note, an official introduction will follow.

**Introduction**

With reference to migration trends that have taken place over the last decades, migration on the grounds of family ties has significantly intensified, becoming the main reason to apply for admission to the territory of the EU. In numerical terms, during 2015, the EU issued around 753000 resident permits for family reason¹, showing that just within one year, chances for a family life of over a million people revolved around EU family reunification procedures.

In the meanwhile, the topic of family reunification gained a highly controversial status both in social and political discourses by the escalation of the recent European refugee crisis. In this context, scepticism and non-acceptance towards family migrants of non-

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European origins has reached a new level within the EU member states, asking for more restraining immigration regulations.

Similarly to asylum-seekers, the right to family reunification is inscribed in international human rights treaties binding for all EU member states. Furthermore, both types of migration are often problematised and viewed as something imposed on host societies which, in turn, do not have a say in choosing who to accept.

In this work, the author intends to examine to what extent and by what means the EU member states are able to manage family reunification, and therefore, to decide who is eligible for entry and who is not. The following case-study will focus on Finland, a ‘new’ immigration country, that is currently at a crossroads, awaiting a possibly radical restrictive turn in its regulation of family migration. In her research, the author argues that the current Finnish legislation on family reunification, has a lot of room for manoeuvre with respect to possible restrictions should they be applied.

Regarding the structure of the work, Part 1 will overview the current EU regulations that family migration is subject to, and will explain existing differences between various categories of people who wish to exercise their rights for family reunification. Part 2 will approach an issue of shared competence over family regulation, spread between EU and national levels. Part 3 will shed light on the relationships between family migration and nation states, offering an insight into states’ ability to condition family and the following consequences for the admitted family members. Part 4 will be devoted to the said case-study and will theorise over state of affairs of family reunification in Finland. In this regard, the author considers employing methodology based on socio-legal analysis and a descriptive case-study.

At the same time, answers to the following research questions will underpin the course of the work:

• What legislative tools do nation states avail in order to regulate family-related migration?
• What is the current Finnish position on family reunification with respect to existing national legislation?

• How did the EU refugee crisis affect family reunification policies in Finland and what are the possible consequences?

The author believes that this thesis could help to draw attention to problems of people trying to reunite with their families and being affected by restrictive policy measures implemented by the EU member states. Additionally, this work could compliment the existing research on this subject in context of Finland, abundant in Finnish, but scarcely available in English, and therefore, offering an insight into the matter to the international community.

**Part 1. Framework: management of family reunification in the EU**

The last decade has defined family-related migration as one of the most pressing issues for the EU member states by opening broad social and political debates around a need to improve respective regulations. The debates primarily derive from the fact that family-related migration flows are on the rise and in numerical terms, family reasons are regarded as a main ground for TCNs (Third Country Nationals) to apply for admission to the territory of the EU.

According to statistics provided by Eurostat for 2015, 20% of residence permits to non-EU citizens were issued on the basis of education; 24% - on the basis of other reasons; 27% - on the basis of employment, whilst the largest share - 29% - was on the basis family ties.² By comparison to students/employees who are often inclined to leave after accomplishing their studies/working mission, family related migrants tend to stay in a country long term. Moreover, they become an important factor in the following increase of immigration population. It can be seen as geometric progression, given that each

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migrant can potentially bring in after himself/herself a ‘second-level’ of migration through further family reunification.3

Scholars point out that the original political discourse over family-related migration initiated in late 1950s after establishment of the European Economic Community (EEC), did not arise out of concern for individual rights. D’Aoust and Petersen explain provisions of family reunification rights in the light of the economic interests of the EEC in order to establish ‘European’ space based on mobility of goods with guaranteed productivity gains.4 This point of view is echoed by Foblets stating that ‘[t]he underlying rationale is that if workers were not allowed to have their families accompanying them, many of them …. would most probably abandon all ambitions to be employed abroad. Such would hinder the further integration of the European market’.5

The trend of family migration persisted in 1980s and 1990s due to expanded asylum migration along with marriage migration. Second generation immigrants often chose to engage in ‘co-ethnic’ marriages with persons from their parents’ country of origin in order to preserve ties with their homeland.

Over decades the dramatically decreased need of the EU economy in non-European guest workers along with a political climate shaped by the 9/11 terroristic attacks, started to shift the primary discourse and to move family migration regulation into restrictive direction. In this new context, migrants and their arriving families were feared to not be able to integrate and therefore, to become a threat to national unity and social cohesion. With a reference to that, it is possible to speak about perspectives of problematisation that migrant families are often viewed from. Kofman, Kraler, Kohl &


5 Ibid
Schmoll identify four types of debates revolving around perception of a migrant family as disruptive for the European society. The first type of debates is related to patriarchal relationships and illiberal practices often associated with migrant families. The second type covers debates around an impaired wellbeing of children that in many instances cannot be guaranteed due to a family separation. Thirdly, there are discussions on poor educational performance of children from migrant families. And finally, there are arguments about crime and violence abundant among the said group of children.6

All these angles of problematisation, abundant in social and political discourse, along with official statistics confirming family reunification being a primal reason for TCNs to enter the EU, make family related migration an important subject of EU migration control discussion and, consequently, legislation. The following section discusses existing EU legislation in this regard.

The EU legal context

The common norms of family reunification applicable on the territory of the European Union member states (with an exception of the opted out states such as Denmark, Ireland, and the UK which is in either way a step away from officially ceasing its EU membership) are mainly based on two Directives: the Directive 2003/86/EC on the right to family reunification and the Directive 2004/38/EC on freedom of movement and residence in the EU.7 And even though the latter Directive is not an immigration legislation per se as its key role revolves around setting out EU-citizens rights of free movement, both directives have a bearing on access of TCNs to the European territory on the basis of family ties. And importantly, these pieces of legislation not just concern, but ‘have a direct impact on the ability of member states to control the admission of TCN family members’.8

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The discrepancy between the directives lies in a resident status of an individual willing to reunite with his/her family members, who is being officially referred as a sponsor. Thus the Directive 2003/86/EC addresses situations under which TCNs residing in a EU member state intent to be reunited with TCNs. Meanwhile the Directive 2004/86/EC is aimed at EU citizens exercising the right of free movement - living in a EU member state different from their original state of citizenship - and seeking reunification with TCNs.

In cases when EU citizens are static - i.e. keep residing in their respective home member states without working experience in other EU member states - the Directive 2004/86/EC does not apply. Instead, the matter of family reunification moves from under the EU to national competences enabling EU member state to shape and manage the respective regulation.

In order to open a further discussion on relationships between European Union’s and member states’ national competences in the context of family reunification, it is suggested to first have a closer look at specifics enshrined in both directives.

**Directive 2003/86/EC on the right to EU family reunification**

From a legal perspective, the adoption of the Directive 2003/86/EC appeared groundbreaking, as for the first time the EU member states’ family migration policies became bound not by national but the wider EU law. However, Groenendijk et al. argued that in the majority of member states ‘transposition of the Directive did not lead to much debate among politicians or in civil society.’

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Essentially, the Directive 2003/86/EC set a bottom level of criteria under which TCNs residing on the territory of the EU member states received a right to be joined by their TCN family members. At the same time, besides mandatory norms binding for all the member states, the Directive 2003/86/EC implied a certain level of discretion to be given to national governments while setting respective policies through so-called ‘may-clauses’. However, these optional provisions left to an exclusive competence of the EU member states, did not allow to set more restrictive policies than outlined by the Directive, but, vice versa, authorised application of less strict ones.\(^\text{14}\)

In spite of the stated, the nature of ‘may-clauses’ and their implication within national laws is seen as ambiguous in the context of rights to family reunification. Thus, Van den Broucke claims that the ‘may-clauses’ can be used by the member states both as a tool of extending and restricting the right to family reunification for TCNs, and she subsequently divided them into two respective categories. The first category include ‘may-clauses’ extending authorisation of additional family members such as dependant parents, dependant unmarried adult children, and unmarried partners. The second category is composed of ‘may-clauses’ of a potentially restrictive nature that could provide the EU member states with a possibility to impose limits on TCNs’ right to family reunification: accommodation requirements, economic resources, integration of language requirements and a minimum residence period for sponsor.\(^\text{15}\)

These opposite effects of ‘may-clauses’ implications resulting in either extending or restricting the rights to family reunification reflect an existing discrepancy between the EU member states’ attitudes towards the issue of family reunification. Groenendijk et al. concluded that existence of restrictive conditions that may be imposed by the member states as a result of ‘may-clauses’, demonstrate the problems faced by national governments in settling a common minimum along with their eagerness to secure status


quot.\textsuperscript{16} Such fragmentation had an overall effect on the final text of the Directive 2003/86/EC. According to Wray, the Directive 2003/86/EC resulted in being less liberal than had been proposed originally, and many member states had to make only small amendments in their national policies.\textsuperscript{17}

In 2008 the European Commission made the first attempt to evaluate implementation of the Directive by issuing a Report on the application of the Directive 2003/86/EC. The findings demonstrated that ‘the impact of the Directive on harmonisation in the field of family reunification remains[ed] limited’ due to extent of discretion granted to the EU member states in relation to the optional requirements accompanied by misapplication and fragmentary transposition.\textsuperscript{18} In 2014, as a countermeasure to the detected incompetence, the European Commission published the Communication on guidance for application of the Directive 2003/86/EC, aiming to improve harmonisation and to ensure the complete implementation of the existing regulations. Despite the fact that there has not been yet a follow-up, i.e. the Communication has not been officially evaluated in terms of the provided impact, one can argue that the EU prioritises harmonisation by demonstrating consistent efforts in trying to increase it.

**Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States**

As stated previously, the Directive 2004/38/EC is not an immigration legislation per se, as it does not create a framework for the control and management of immigration. The rationale behind adoption of the Directive 2004/38/Ec was to systemise the EU citizens’ rights of free movement and residence across the EU member states, inscribed in the Treaty of the Functioning of the European Union. The rights of the EU citizens’s TCN family members to stay on the territory of the EU are of a subordinate nature, since they


\textsuperscript{17} Ibid p. 217.

origin from the EU citizens’ rights of free movement and residence across EU member states.\textsuperscript{19}

In the context of the Directive 2004/38/EC, such a close interweaving of the rights of EU citizens and their TCN family members guaranteed on the EU level, may conflict with EU member states’ competence to control the admission of TCN members, the competence which is normally safeguarded by their national laws. As a result, numerous scholars draw attention to the issue of reverse discrimination. Croon-Gestefeld with a reference to Walter, points out that various member states put their own citizens through more stringent regulations than nationals of other member states under comparable circumstances with regard to residence rights of their TCN family members.\textsuperscript{20} The primary cause that license EU member states to apply different regulations to EU citizens is defined by whether a EU citizen exercises his/her right to the freedom of movement or otherwise. The latter case automatically invokes a link to the EU law, while family reunification with static EU citizens is managed on the national level. Berniri argues that ‘EU static citizens that cannot claim this link but find themselves in similar circumstances simply see the very same right denied [rights to family reunification with their TNC family members]’.\textsuperscript{21}

In the literature, occurrence of reverse discrimination is often seen in connection with the multiplicity of existing regulations covering the subject of family reunification. According to Groenendijk, reverse discrimination stems from 'co-existence of EU law and national law on family reunification providing for different levels of rights for different groups'.\textsuperscript{22} Tryfonidou echoes Groenendijk stating that reverse discrimination is


‘a side effect of the existence of different laws at different levels which govern very similar situation’. 23

**Part 2. EU multilevel governance in the context of family reunification management**

Traditionally, questions of migration and related policies lie within the scope and competence of nation states. However nowadays, as demonstrated above, the competence is disarranged and shared between different areas of governments such as those on a national level and those on the higher European Union plane. Additionally to that, there is a line of research proving the increasing involvement and importance of regional and local levels. 24

One can argue that consequences of a shared competence spread between various governmental levels are not either univocal, or straightforward. One way of approaching migration in context of multilevel governance is to examine interaction and a potential co-influence occurring between the levels. However a further discussion in this regard is not possible without introducing a notion of Europeanisation, which serves both as its basis and framework.

**Conceptualising Europeanisation**

In general terms, Europeanisation can be explained as a process of a change with the intention of ‘becoming more European like’. 25 It implies that something of a non-European structure alters its nature by embracing European traits. In the context of the European Union system, it often refers to changes within political and economical domains of nation states that they experience due to existing directorial European rules. However Europeanisation is not necessarily binding through the rules, but also through spirit and dynamics. Its classical definition by Ladrech suggests that Europeanisation ‘is

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an is an incremental process reorienting the direction and shape of politics to the degree that EC political and economic dynamics become part of the organisational logic of national politics and policy-making’. Based on the provided definitions, it is possible to conclude that migration and related policies have been steadily subject to Europeanisation. Just to name a few initiatives that took place over the last decade, such as establishing of the EU Agency Frontex, setting the European Agenda on Migration, creation of the EU Blue Card, adoption of the Directive 2014/36/EU on seasonal workers, and certainly the Directive 2003/86/EC on right to family reunification.

As in every process, Europeanisation has its own patterns that have evolved typical for it. In this regard, the author finds the classification offered by Scholten and Penninxk particularly noteworthy. According to it, Europeanisation can be centralist, localist, transgovernmentalist or decoupling. The first form emphasised the supreme nature of the EU directives that implies a cessation of control for member states. The second one, in turn, stresses upon efforts of member states in cooperating with each other for their own benefits on the EU scene, and therefore does not imply any significant loss of control from their side. The transgovernmentalist form suggests a possibility of a balance in control and coordination between EU and national levels that complement each other in pursuit of own interests. And finally, decoupling refers to conflicts and uncoordination between the said levels.

Should one apply these patterns to the Directive 2003/86/EC, the transgovernmentalist form appears to be the most suitable for the case, as the logics of the Directive has a lot of in common with description given in the context of migration. According to it, ‘governments seek cooperation in a European setting, even ceding some power and control to EU institutions, in order to gain a firmer grip on immigration, to the benefit of


the nations as well’. It follows from this that the Directive 2003/86/EC attempted to establish partner relations between the EU and national levels, acknowledging the issue of family reunification being equally important both for nation states and EU in general. Although a legal supremacy and a binding nature of the Directive 2003/86/EC are indisputable, the attempts for the balance are seen for instance, in the existing soft ‘may-clauses’ which leave a ‘room for manoeuvre’ for states according to their interests and political agendas. More specifically, a strong influence of national policy makers can be found in pre-departure integration measures introduced by the Dutch based on a respective ‘may-close’, and which are subsequently echoed in Austria, Denmark, France, Germany, and the UK on the grounds of a shared policy experience with other member states. Even though the spreading of these measures was against the initial spirit of the Directive 2003/86/EC and was discouraged by the EU institutions, there was not a legal way to derail it.

This later example puts forward another perspective to look at Europeanisation, namely through the direction of its dynamics that can be vertical or horizontal. The first one is emerges from Guiraudon’s theory of ‘venue-shopping’, according to which ‘[a]ctors seek new venues when they need to adapt to institutional constraints in a changing environment’. In other words, it refers to member states’ strategical attempts to transfer their political interests (usually sensitive or controversial) to a European level - venue - in order to receive the desired outcome through transposing European directives, and bypassing national constraints (for instance, opposition). The author believes that this perspective brings into focus ‘convenient’ supremacy of the EU law in the context of double-dealing nature of national politics, but at the same time it shadows a process of mutual transfer of ideas and cooperation existing between states. The horizontal Europeanisation, in turn, emphasises the importance of diffusion of policy ideas among member states through EU policy and politics. In this the later play a role

28 Ibid

of a ‘massive transfer platform’ that allows member states to share and exchange knowledge about best practices.\textsuperscript{30} Here, the EU law is perceived as an instrument providing opportunities rather than legitimacy. As an outcome, EU legal norms lose their status of a definite legitimacy, shifting instead towards shared policy practices.\textsuperscript{31}

In attempt to apply this classification to the Directive 2003/86/EC on the right to family reunification, one can argue that it falls somewhere in-between. At its initial stage, the support of member states for the Directive 2003/86/EC could be seen as ‘a desire to scale down generous domestic legislation that could not be scaled down domestically’, and, therefore, we would speak of vertical Europeanisation.\textsuperscript{32} However, it is important to remember that the Directive 2003/86/EC originated in the very end of 1990s, and ever since then the role and influence of the Court of Justice of the European Union in the domain of fundamental rights has grown significantly. Therefore, in theory, the EU venue nowadays is much influenced by its decisions, and less open for the restrictive migration policy suggestions as offered by member states.

On the other hand, going back to the example of pre-departure integration measures introduced by the Dutch, it is possible to notice features of horizontal Europeanisation there. The Directive 2003/86/EC served as a platform for spreading policy ideas and discussing ‘common practices’ that became a legitimate basis for linking integration requirements to immigration. However again, given the fact that these measures were not in line with general spirit of the EU institutions that did not encourage its introduction, it is problematic to speak of a typical example of horizontal Europeanisation.


The arguments brought up above prove multiple complexities embodied in the Directive 2003/86/EC on right to family reunification. Examined in the context of Europeanisation, it failed to fit any extreme form of presented classifications, always opting for a medium option. In case of the first typology, reflecting government relations, the best suitable form appeared to be transgovernmentalism, the ‘ideal type’ emphasising a balanced involvement and cooperation between national and EU levels. In regard to the second typology of vertical & horizontal Europeanisation, the Directive 2003/86/EC proved to obtain traits of both.

**Part 3. Family and marriage migration in relation to nation states**

Without getting into nuances, a nation state can be roughly described as a system of organization in which people sharing common identity reside in a country with concrete borders and a single government. Therefore, it is possible to define such cornerstones of a nation state as sovereignty, borders, and cultural identity. Marriage migration has a special place in the whole discourse over family migration as it challenges the very ideas underling the concept of nation state.

First of all, as Pellander points out ‘[m]arriage migration stretches family life beyond and across national boundaries’. Furthermore, along the same lines, Wray picks up on the concept of movement and change represented by marriage migrants versus immobility grounded in sovereignty. And if both of these statements can also resonate with international migration of individuals, the fact that family plays a key role for continuation of a nation being seen responsible for its reproduction, is unique and puts a particular spin on marriage migration. Importantly, here reproduction has a broader meaning rather than just biological. It equally represents an idea of continuance of social, ideological and cultural values of some groups defined as a nation through the family. From this perspective, family units composed of migrants i.e. non-nationals (or

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even a bi-national family unit including a national) cannot guarantee preservation of original values and norms of a nation state, but are rather viewed as a trigger for potential social dissolution and fragmentation.

It follows from this that a family is perceived as an intersection of individual, social and state realms. Therefore, a state has a great interest in managing family migration through introducing various regulations concerning family life and imposing its own definition and understanding of a ‘desired’ image. A migrant fitting this image becomes eligible on the territory of the country, whilst a state keeps its right to determine what and who the family is.\textsuperscript{36} It becomes rather evident that non-migrant families, not having a need to tick all the right boxes set by migration law in order to prove and to legitimise the right of being together, are further away from a state-imposed normative expectations of the family, and have a better change to confront them compared to migrant families.

\textit{State defining the family}

The previous section touched upon an important assertion of the state being a watchdog for a family formation. A state imposes its definition of the family through law, and with regard to family reunification - through immigration regulations. Here the author would like to discuss in more details, what expectations state has while defining who can qualify for a family.

One can speak of different types and classifications of a family that appear under a broad range of cultural and social circumstances. Besides an idea of ‘blood’, the notion of family can be rooted in ideas of living together, establishing an economic unit, sharing care and emotional support, or even food (like in the concept of milk kinship practiced in Arab countries in the past, where strong family ties were established between biological parents and a family of a woman’s breastfeeding their child).\textsuperscript{37}


However, in context of migration regulation, the family is defined with regard to its family members, and a subsequent discussion revolving around the immediate and/or extended families. Members of the latter, such as grandparents, aunts/uncles and other second-degree relatives, are mostly disqualified and not eligible to admission as family members. Only immediate family members are considered for an entry, or more precisely, regulations based on an understanding of family as on the image of a nuclear family, which is even more narrow than immediate family as it is mainly defined by spouses and minor children. One can argue that from the perspective of family migration, extended family ties are viewed as secondary whilst only the basic nuclear family is prioritised as fundamental for the well-being of society. As it is vividly put by Cohen, family ties ‘become the sacrificial lambs of immigration control with controls themselves becoming an ideological defence of the true family - the nuclear family’. 38

A provided overview captures a basic logic of reasoning prevailing within the family reunification regulations, however, in the context of the European Union, there is a noticeable variation in definitions of a nuclear family among the member states. Whilst all the EU member states consider an official heterosexual spouse eligible for family reunification, the majority of them (excluding BG, LV, LT, PL, RO, SK) also allow registered partners, as they recognise a civil union as comparable to official marriage.39 Furthermore, most of the EU member states authorise same-sex unions, including 13 member states (BE, DK, FI, FR, DE, IE, LU, MT, NL, PT, ES, SE, UK) where same-same marriages are officially legal, thus confirming that homosexual spouses have as well the right to family reunification. 40

Regarding the status of children eligible for family reunification, EU member states recognise biological, legally adopted and stepchildren. With regards to the age, it concerns minor children i.e. under the age of 18, with an exception of DK setting an age

40 euronews. (2017). Which countries in Europe allow gay marriage?
limit of 15. Also, some states allow admission for adult children in case they are incapacitated and are otherwise legally dependant (EE, CZ, IT, UK).41

The presented findings across the EU member states vary in terms of approach and their definition of ‘classical’ members of the nuclear family - spouses and their children. Yet it appears difficult to find national legislations going beyond the said family concept in consideration of other groups of relatives entitled to family reunification. One can claim that the admission of the later is defined not from the position of existing family ties, but rather from the position of special circumstances. Special circumstances are synonymous to hardship, and often equal to a poor economic situation and dependancy under which a family member, who is left behind, would not be able to support himself/herself. Elderly dependant parents (CZ, DE, EE, ES, IT, LU, NL, UK) and in some cases grandparents (ES, LU, UK) are almost the only categories it is applied to.42 Entry of other family members (siblings, aunts/uncles etc) on the grounds of family reunification are extremely rare and if possible, then only in cases involving humanitarian reasons.

**State sets conditions on the family**

The outline above demonstrates that a nation state is normally not willing to recognise the existence and significance of multifaceted family ties and instead prefers using a tightly focused common denominator – nuclear family – when managing family migration. However, falling under a legal definition of a family member eligible for admission is not the only condition that has to be met by applicants. In practice, each EU member state sets a number of additional requirements, among which the most common and principal are income, accommodation and health insurance.

The central point of these requirements is a sponsor. It is a definition within the EU context deriving from a general one, implying a person who contributes or vouches on


behalf of another. So along the same lines, in terms of EU migration regulations, a sponsor stands for a citizen/TCN ‘residing lawfully in a member state and applying or whose family members apply for family reunification to be joined with him/her’. 43

One can assume that the requirements specified above must, therefore, guarantee that a sponsor is allowable not only to take his/her family in, but also capable of taking care of the family, and not necessarily in a long run, but most importantly right away. In this regard, Staver draws attention to a growing inequality between different groups of sponsors, rooted in their own status on the territory of EU.44 For instance, EU citizens performing as sponsors are not always asked to fulfil the income requirements, whilst it is a compulsory procedure for TCN sponsors. A required income tends to be aligned with the amount of minimum wage in a country that is needed to provide sufficient support for a family without falling back on a state financial backup. At the same time, EU citizens do not have any time requirements to comply with reunification, whereas TCN sponsors can be subjected to a compulsory period of legal residence in the country before reuniting with the family.

Most of the EU member states are unanimous in requiring from a sponsor the proof to be able to provide an accommodation appropriate for a comfortable (i.e. safe & healthy) life of a family. A few member states (HU, DE, LU) get even more specific by setting criteria for the size of a space (based on the number of occupants) that would guarantee a satisfactory quality of housing for all. In parallel, the majority of member states ask from a sponsor a coverage of a health insurance with an exception for the countries (FI, IT, SE) that put insured health services in line with public goods universal for all residents.

This general review illustrates that family reunification management is aimed at erasing boundaries between the personal and the state. Questions of income, housing and health insurance that under different circumstances would remain private matters of

individuals, are turned into admission criteria, not compliance with which can jeopardise a chance of getting reunited with family members. At the same time, the existing dichotomy such as sponsor vs family members applying for family reunification, appears quite rigid as it automatically imposes different roles on members of the family, and even enables some hierarchy. The following section will pick up on this speculation by shedding the light on the subject of dependancy caused by family reunification regulations.

**Dependancy in the context of family reunification**

Requirements embodied in the migration policies illustrate that a state has not just its own normative image of the family, but also controls to have a further impact on its internal structure and relationships between its family members.

In literature, much attention is being paid to the notion of dependency, as one of the most common consequences developing after family reunification, or even embedded in the very process of it. Pellander views it as an inherent element of the relationships set between a sponsor, an immigrant and a state. 45 Riaño & Wastl-Walter take a gender perspective and claim that it results from the pre-defined gender roles and norms rooted in immigration law. 46 This approach is elaborated further by Rea & Wets whose findings assume that family reunification policies are predisposed to reinforce a traditional breadwinner model within a family despite a country’s potential engagement in achieving gender equality. 47

There is a number of ways to classify and to structure dependency, but with regard to the studies literature, the author would like to speak about the concept by distinguishing two levels, namely *structural* and *intimate* dependancy. Being aware that given names


are not necessarily accurate, the author still believes that this categorisation could be helpful for understanding the notion.

Under structural dependency the author understands dependency which follows directly from the compliance with migration requirements conditioned by states. The pure fact of being allowed into a country through family relationships with a sponsor and not through the presentation of some other personal merits, defines a migrant as a dependant. A ‘reminder’ of that can be found even on the official documents confirming a migrants’ legality on the territory of a country. As an example, a Belgian residence ID card issued on the basis of family reunification, has a separate line explaining that it is ‘a residence permit of the member of the family of a citizen of the Union’. This definition proves that there is no direct relationships between a migrant and a state, they are second-hand and viewed through relationships established between a sponsor and a state. Further to that, dependency on a sponsor also regulates a scope of rights given to a migrant after the entry. It controls not only access to the labour market which is granted on the basis of a sponsor’s right to legally work in the country, but the very right to remain on the territory of a state. The latter contains a lot of potentially negatives scenarios, for instance, allowing situations when a migrant would rather stay in an abusive relationship with his/her sponsor rather jeopardising the personal right to reside in a country by leaving a sponsor. Even though some member states (BE, DE, ES, IE, FI, FR, LU, NL, SE) protect the rights of migrants who are subject to violent/abusive behaviour from a sponsor, by granting them an independent residence status, one cannot disregard the fact that some migrants feel deeply ashamed of the happening, and therefore do not feel like publicly admitting it and presenting the required proofs.

48 From the author’s personal ID card and translated from French: ’Carte de séjour de membres de la famille d’un citoyen de l’Union’.

The absence of a legal independent status given from the beginning is certainly one the biggest reasons of insecurity and vulnerability experienced by migrants.  

And finally, dependency often performs as a prerequisite for family members outside of the core of a nuclear family to entry a country. As it was shown in the *State defining the family* sections, admittance of parents or grandparents can be granted only in cases of proven incapacity of them to take care of themselves.

Under personal dependency the author understands that it can occur in the private life of a family unit affecting their relationships and family roles. In general, migrations complications aside, when a person moves to a new country in order to join a partner/ close family member already residing in this new country for a short while or for the whole life, there is a shift of dynamic within their relationships. A newcomer may often feel lost, plucked from his/her own routine, work, social circle, and be unfamiliar with local rules and social norms. In this situation, a person already living in a country becomes a major point of reference, a source of information and of new social contacts. This role *a priori* creates conditions for dependency between a ‘resident’ and a ‘newcomer’, as the latter deprived becomes reliant on a ‘resident’ in terms of provided information and even choices.

In the case when a ‘newcomer’ and a ‘resident’ are subject to migration regulations, the situation intensifies owing to a structural dependency as discussed above. Current family reunification policies were developed under specific social and historical circumstances, ‘setting the nuclear family model with one (male) breadwinner as the norm’.  

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roles and double income earner models in terms of the earning structures of EU couples.\textsuperscript{52}

Being subjected to the role of a dependent family member can be very hard psychologically, especially when this role has never been familiar nor satisfactory for a migrant before. In a long run it may set back or even hamper developing or existing relationships. In a study based on interviews with Eastern European women married to Belgian nationals and admitted to the country on these grounds, Rea & Timmerman voice their dissatisfaction with family life and concerns regarding the imposed role of housewives caused by the difficulties to perform on the labour market regardless of having a university-level education and the ability to work.\textsuperscript{53} One can conclude that even in cases with open access to the labour market, guaranteed from the legal perspective, there are other factors, such as language barriers or difficulties with recognition of professional qualifications, that feed into the existence of dependency in relationships. These factors are not directly in the competence of migration policies, but rather depend on the pre-existing ‘infrastructure’ of each state that can be favourable for migration in general or not.

The information presented above illustrates the point that dependency between a migrant and a sponsor is unavoidable in one way or another. At the very least, it has a structural nature embedded in self-definition and rights of a migrant through his/her sponsor, and at its worst it can also hinder personal relations between them through emotional hardship and expectations set by a state with regard to family roles based on the archaic model of the family breadwinner.

\textit{Part 4. Case-study}

\textbf{Methodology}

\footnotesize{\textsuperscript{52} Emerging trends in earnings structures of couples in Europe. (2017). Short statistical report No.5. [online] European Commission, p.19.}

In order to address the identified research questions, the author employs methodology based on socio-legal analysis and a descriptive case-study. The first one argues that ‘law does not operate in vacuum’, and therefore there is a need to include non-legal issues in the context of law.\textsuperscript{54} It provides an author with an analytical lens aimed to capture influence of legislation on its practical implementation within the society without a need of going too deep into the legal analyses. This method includes analyses of primary sources of law and policy analyses. A case-study method is applied to address the dynamic of a given phenomenon within its actual context. It is ’is defined by interest in an individual case, not by the methods of inquiry used’, and therefore provides a relative freedom of choice with regards to methods.\textsuperscript{55} And whilst case-study seeks a detailed analyses of phenomena, its environment and other actors involved, it implies an author’s interpretation of them. This method includes analyses of the relevant literature, interview analyses and secondary data analysis.

To begin with, the author will overview the relevance of the chosen topic within the existing context, arguing that Finland is underrepresented in academia in regard to research on family migration and related practices.

Secondly, the author will describe a Finnish path from the country of emigration to the country of immigration, looking into the political discourse of the last years being torn between anti- and pro-migration extremes.

Thirdly, a legal framework of family reunification in Finland will be presented. Further to that the author will examine the Finnish approach to family, and the respective requirements set for family reunification. This overview will be based on the analyses of the current Aliens Act with some reference to its historical development. Conclusions will be drawn in the end of the section in order to sum up Finland’s current state of affairs concerning family reunification.


\textsuperscript{55}E-International Relations. (2017). The Advantages and Limitations of Single Case Study Analysis.
And finally, the latest trends in the Finnish legislation concerning family reunification will be scrutinised. It will help to identify the present dynamic and foresee a potential course of future development.

General findings and remarks on this part will be presented in the Conclusion section.

Background of the research

In literature, the topic of family related migration in the context of the European Union has been substantially covered from different perspectives. In terms of country case studies, there is a significant scope of research focusing on large immigrant-receiving countries such as France, Germany, Italy, Sweden and the UK.\(^{56}\) Besides those, scholars tend to pay particular attention to countries setting some remarkable (or notorious) examples within their national context. For instance in one direction, Denmark is infamous for its stringent legislation on family reunification, in another it is known that the Netherlands has pioneered the introduction of pre-departure integration requirements for arriving migrants.\(^{57}\)

By comparison, one can notice that Finland is rather unrepresented in academia in regard to research on regulation of family migration and related practices. The existing literature is written mostly in Finnish, which certainly cannot be disregarded or diminished, but which makes it unaccessible for the international academic community to easily and readily understand the situation there. Even though during last few years there was an increase in research presented in English, it remains a relatively small


\(^{57}\) For example, see Wagner, R. (2014). ‘Transnational civil dis/obedience’ in the Danish family unification dispute. *European Political Science Review*, 7(01), pp.43-62.


amount and is difficult to readily source.\textsuperscript{58} Moreover, a lot of scholars writing on family reunification matters tended to focus on the Somalia community, which is an unquestionably important as it is historically important in the context of Finnish immigration, but which is nonetheless a narrow focus.\textsuperscript{59} At the same time, one can observe a raising interest in the subject of marriage migration, which is being examined from different perspectives such existing political discourse, implementation practices and gender.\textsuperscript{60}

Given all that, the aim of this master thesis is to provide a more general picture on the family reunification regulations in Finland, and in placing and defining them within the context of the existing EU national practices. Being aware of the language constraints and therefore inability to access all the available information on the subject, the author believes that such a ‘zoomed-out’ research has been missing so far, and therefore, could become a contribution into a better understanding as to where Finland currently stands in regard to family reunification.

\textit{Immigration in Finland}

Until recent times Finland has been defined as a country of emigration, i.e. the amount of people leaving the country in order to settle down somewhere else was exceeding the number of people willing to move and settle there.\textsuperscript{61} During the course of the 19th and early 20th centuries, the key destination points for emigrating Finns were North America and Sweden, both of which promised better economic opportunities and/or social security than which was available back in the motherland. This trend existed until

\begin{itemize}
\item \textsuperscript{58} For example, see Leinonen, J. (2013). Court decisions over marriage migration in Finland: A problem with transnational family ties. \textit{Journal of Ethnic and Migration Studies}, pp. 1-19.
\item \textsuperscript{59} For example, see above and Al-Sharmani, M. and Ismail, A. (2017). Marriage and transnational family life among Somali migrants in Finland. \textit{Migration Letters}, 14(1), pp.31-50.
\item \textsuperscript{60} For example, Pellander S. (2016) GATEKEEPERS OF THE FAMILY: REGULATING FAMILY MIGRATION TO FINLAND, Academic dissertation.
\end{itemize}
the 1980s when the number of immigrating people was registered higher than emigrating ones for the first time in documented history. In fact, a new development exposed not only a numerical change, but also a change in terms of ethnic background and origins of new immigrants. If prior to the 1980s, the immigration flow was largely composed of so-called return immigrants (i.e. those being born in but emigrated from Finland themselves, or those having ancestors of Finnish origins), the structure of the new flow appeared to be very ethnically diverse. First to mention, following the dissolution of the USSR, there were immigrants from the former Soviet Union republics along with those from the former Eastern Block countries. Many of them were permitted entry due to the programme on repatriation of Ingrian Finns - descendants of the 17th century Finnish immigrants later concentrated in Leningrad Oblast of USSR/Russia - announced by the Finnish President Mauno Koivisto holding the post from 1982 to 1994. Notably, upon their arrival, participants of this programme, were immediately entitled to a Finnish residence permit under the Finland’s Right to Return policy, a policy that recently terminated in 2016. Secondly, another share of the new migration flow consisted of immigrants from Africa and Asia, mainly from countries such as the aforementioned Somalia, as well as Iraq, Vietnam, Thailand and China. Many of them arrived as refugees and asylum seekers, some others - on the grounds of family reunification. And thirdly, due to consequences of globalisation, namely a general increase of international contacts world-wide, intensified by the membership in the EU from 1995; Finland opened up for international mobility, becoming a place of choice for many foreigners based on their professional, educational or family reasons.

The following table illustrates a share of foreign nationals in Finland.  

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The last few years as marked by the European migrant crisis have brought new challenges for the patterns of Finnish migration. Finland has been facing an unprecedented flow of refugees and asylum-seekers coming from both the Schengen area zone countries and from Russian-Finnish border. Thus according to the statistics, in 2001 the total number of persons seeking asylum in Finland was 1643, whilst only 14 years later in 2015, the number of applicants reached 32476, a multiplication of almost 18 times.\(^{65}\) And even though its share in the total amount of applicants in all the EU

<table>
<thead>
<tr>
<th>Country of citizenship</th>
<th>2015</th>
<th>%</th>
<th>Annual change, %</th>
<th>2016</th>
<th>%</th>
<th>Annual change, %</th>
</tr>
</thead>
<tbody>
<tr>
<td>Estonia</td>
<td>50 367</td>
<td>21,9</td>
<td>4,2</td>
<td>51 499</td>
<td>21,1</td>
<td>2,2</td>
</tr>
<tr>
<td>Russia</td>
<td>30 813</td>
<td>13,4</td>
<td>0,6</td>
<td>30 970</td>
<td>12,7</td>
<td>0,5</td>
</tr>
<tr>
<td>Iraq</td>
<td>7 073</td>
<td>3,1</td>
<td>4,1</td>
<td>9 813</td>
<td>4</td>
<td>38,7</td>
</tr>
<tr>
<td>China</td>
<td>8 042</td>
<td>3,5</td>
<td>6,4</td>
<td>8 480</td>
<td>3,5</td>
<td>5,4</td>
</tr>
<tr>
<td>Sweden</td>
<td>8 174</td>
<td>3,6</td>
<td>-1,4</td>
<td>8 040</td>
<td>3,3</td>
<td>-1,6</td>
</tr>
<tr>
<td>Thailand</td>
<td>7 229</td>
<td>3,1</td>
<td>5,3</td>
<td>7 487</td>
<td>3,1</td>
<td>3,6</td>
</tr>
<tr>
<td>Somalia</td>
<td>7 261</td>
<td>3,2</td>
<td>-1,6</td>
<td>7 018</td>
<td>2,9</td>
<td>-3,3</td>
</tr>
<tr>
<td>Afghanistan</td>
<td>3 741</td>
<td>1,6</td>
<td>6,1</td>
<td>5 294</td>
<td>2,2</td>
<td>41,5</td>
</tr>
<tr>
<td>Vietnam</td>
<td>4 552</td>
<td>2</td>
<td>14</td>
<td>5 253</td>
<td>2,2</td>
<td>15,4</td>
</tr>
<tr>
<td>India</td>
<td>4 992</td>
<td>2,2</td>
<td>5,6</td>
<td>5 016</td>
<td>2,1</td>
<td>0,5</td>
</tr>
<tr>
<td>Turkey</td>
<td>4 595</td>
<td>2</td>
<td>1,9</td>
<td>4 654</td>
<td>1,9</td>
<td>1,3</td>
</tr>
<tr>
<td>United Kingdom</td>
<td>4 427</td>
<td>1,9</td>
<td>3,4</td>
<td>4 562</td>
<td>1,9</td>
<td>3</td>
</tr>
<tr>
<td>Poland</td>
<td>3 959</td>
<td>1,7</td>
<td>7,5</td>
<td>4 192</td>
<td>1,7</td>
<td>5,9</td>
</tr>
<tr>
<td>Germany</td>
<td>4 112</td>
<td>1,8</td>
<td>12,1</td>
<td>4 149</td>
<td>1,7</td>
<td>0,9</td>
</tr>
<tr>
<td>Ukraine</td>
<td>3 392</td>
<td>1,5</td>
<td>12,1</td>
<td>3 761</td>
<td>1,5</td>
<td>10,9</td>
</tr>
<tr>
<td>Others</td>
<td>77 036</td>
<td>33,5</td>
<td>7</td>
<td>83 451</td>
<td>34,3</td>
<td>8,3</td>
</tr>
<tr>
<td>Total</td>
<td>229 765</td>
<td>100</td>
<td>4,6</td>
<td>243 639</td>
<td>100</td>
<td>6</td>
</tr>
</tbody>
</table>

member states was average - 3,7% - it was a sensitive surge, considering the size of the Finnish population of around 5,5 million and the speed of which it had unfolded.  

This situation entered the wider public discourse, dividing the country into two opposing camps: those for migration and those against. While advocates for migration were emphasising the importance of multiculturalism and the need for compassion, the proponents of anti-migration viewed asylum-seekers as a potential societal danger for the country from cultural, religious, financial and security-related perspectives. The newcomers were associated with a perceived potential increase in crime, islamisation, and as a financial burden for the social security system and for the assumed failure of future integration. In 2015, the state broadcaster Yle reported a spike of black-and-white attitudes on migration-related issues along with an upsurge of hate speeches. The very same split of attitudes took place in the political discourse, best represented by a series of online posts made by a number of Finnish parliamentarians in regard to multiculturalism. Olli Immonen, a member of the nationalist Finns Party - the second biggest party in the Parliament of that time - wrote on his Facebook page that he was ‘dreaming of a strong, brave nation that will defeat this nightmare called multiculturalism’. Later, he was responded to online by the past Prime Minister Juha Sipilä, and by Alex Stubb, the then Finance Minister, both who echoed each other in stating that ‘multiculturalism is an asset’ and that Finland needed to develop ‘as an open, linguistically and culturally international country’.  

Already in 2016, however, the amount of applications for asylum in Finland has bounced back as radically as it went up a year prior to it, resulting in 5651 filings. Such a decrease in numbers followed the agreement between EU and Turkey on halting the flow of migrants reaching the EU through Greece. And although the situation has

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almost rebounded, the anti-immigration tone that had grounded itself in the political and social discourse, requested changes within the existing migration legislation. In the following sections, the author will discuss how it affected the domain of family reunification.

**Legal framework of family reunification in Finland**

Finland is not an exception from other EU member states in a sense that most resident permits are issued in the country on the grounds of family ties.\(^{70}\) At the same time, according to the MIPEX findings, Finland holds the 8th position in the EU rating of favourability of conditions for family reunification, scoring 68 points and defined as ‘slightly favourable’.\(^{71}\)

Before January 2017, the competence of managing residence permits was divided between Migri, the Finnish Immigration Service, and the police. Whilst Migri was handling residence permits applied for from abroad, the later was dealing with extension of residence permits along with the issuance of residence permits that were applied for by persons already residing in Finland, such as family members of Finnish and other EU citizens. Starting from 2017, a centralisation reform took place, whereby the police were removed immigration procedures, consolidating the position that Migri remained the only agency responsible for processing all the applications. According to its Director General, the purpose behind this centralisation was to make Migri ‘a kind of ‘super agency’ for all immigration matters, apart from visa-related matters’, which is in line with Migri’s general vision for 2021 of ‘building a strong and secure Finland’.\(^{72}\)

As a EU member state, Finland manages family reunification in compliance with both EU and national legislative levels. As discussed earlier within the thesis, the EU level in this regard is shaped by the Directive 2003/86/EC on the right to family reunification

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\(^{71}\) The latest MIPEX rating is from 2014, therefore, it does not take into account the changes in legislations over last few years, but still gives an overview of the very recent past.


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and the Directive 2004/38/EC on freedom of movement and residence in the EU, along with case-law of the Court of Justice of the European Union. The national level relies largely on the Aliens Act, enacted for the first time in 1983 and subsequently revised on numerous occasions. The latest version was made into law in 2004, but there were some amendments place on it since then (to be examined later), demonstrating that the government pays much attention to regulation of this field.

The Aliens Act implies some categorisation to residence permits issued on the grounds of family ties based on the resident status of a ‘sponsor’. They can be issued to family members of Finnish citizens and other citizens of the EU/comparable persons, or to family members of third country nationals. The first category is regulated in compliance with the Finnish national law and the Directive 2004/38/EC on freedom of movement and residence in the EU, as discussed earlier. In turn, the second category is regulated based on the Directive 2003/86/EC on the right to family reunification, and distinguishes between family members of beneficiaries of international protection and of other TCNs holding residence permits on other basis such as, for instance, employment of education. The Aliens Act defines international protection as ‘refugee status, subsidiary protection status or a residence permit granted on the basis of humanitarian protection’.

\textit{Finland defines the family}

In line with the structure of the thesis, here the author would like to present the Finnish approach to definition of the family. Such a definition did not exist until 1999, and was brought with amendments introduced to the version of the Aliens Act lawful at that time. Like most of the other EU cases, the definition derived from the concept of a nuclear family, and therefore was taking into account a spouse and unmarried children under 18 y.o (initially - only shared children and children of a sponsor, not a sponsor’s spouse). Both heterosexual and homosexual cohabiting partners were also recognised in

\begin{itemize}
\item Reference to the EFTA countries (Iceland, Liechtenstein, Norway, Switzerland).
\item Aliens Act.3 (13).
\end{itemize}
the same way as a married couple, in so far as their living together was not less than two years. In this case it did not matter if they had a child. By 2004, when a new version of the Aliens Act came into power, the homosexual partners had got the official right to register their relationships. This was reflected in the new text which introduced a new category such as registered same-sex union that was treated identically to officially married spouses in line with the previous version of the Aliens Act.\textsuperscript{75}

In 2006, Finland introduced a change to the initial family definition, giving recognition, and therefore, rights for family reunification also to children of a sponsor’s spouse.\textsuperscript{76}

Secondly, Finland broadened its narrow definition of a nuclear family with respect to TCN beneficiaries of international protection, granting their other relatives a possibility for admission to the country, in case of proven close family ties or full dependancy.\textsuperscript{77}

Therefore, in this regard their rights were brought closer to the rights of Finnish and EU/comparable citizens whose other relatives could be admitted in case of dependancy, while TCNs holding their residence permits on grounds different from international protection remained without such a right.

Although the first change was introduced into the Finnish context in order to match the definition of the Directive 2003/86/EC, the second one was a result of a positive interpretation of a ‘may-clause’ on other relatives, inscribed in the EU document. Given that, it is possible to conclude that the Directive 2003/86/EC influenced the Finnish legislation in a liberal way, by shifting definition of family towards the direction favourable for persons applying for family reunification.


\textsuperscript{76} Amended by Act 380/2006.

\textsuperscript{77} Amended by Act 323/2009.
Finnish requirements for family reunification

According to Bonjour, the ‘new’ immigration countries manage family reunification in a less restrictive way rather than ‘old’ immigration countries. As discussed earlier, Finland has turned from the country of emigration to the country of immigration relatively recently, and therefore should fall under the definition of a ‘new’ immigration country. Further examination of the requirements for family reunification, set within the Finnish legislation, appears to be in line with Bonjour’s thesis.

One can argue that up to this point, Finland has been relatively undemanding on the subject of the requirements. Thus, in accordance with the Aliens Act, a sponsor is not required to have either proof of accommodation or health insurance. Also, there is no particular duration of residence specified as compulsory for a sponsor before he/she can exercise the right to family reunification. Similarly, sponsors are not subject to any integration measures.

However, one of the most important requirements for a sponsor, inscribed in the Aliens Act, is to comply with showing proof of a sufficient income. The Aliens Act itself does not define the amount of the required income which is left for the competence of Migri. In an attempt to make sure that a sponsor’s family will not suffer from economic hardship, Migri requires a sponsor do demonstrate a stable legal income calculated based on the existing ‘price grid’. According to that structure, having a family without children will ‘cost’ (or namely, require a salary such as) 1700 EUR per month, whilst ‘adding’ a child with result in additional 500 EUR per individual. The set amounts are calculated as net salary, therefore, the sum before deductions must be significantly larger. However, there are some exceptions from the income requirement, namely for


abnormally weighty reasons, for the best interests of a child, and for sponsors of refugee status. In the later case, the exceptions apply under conditions that a sponsor’s family union had been constituted prior to his/her arrival to the country, and given that application for reunification had been submitted within three months from an official receipt of refugee status. The income requirements do not exist either for Finnish citizens or EU citizens/comparable persons, even though its potential introduction was widely discussed in the Finnish Parliament last year.

From the perspective of structural dependancy examined earlier, Finnish legislation appears to be rather liberal. Even though the author argues that structural dependancy of some sort in unavoidable, a national legislation has a direct impact on its extent. In the Finnish case, the scope of rights guaranteed to family members admitted on family grounds remains considerable. Thus, based on a granted residence permit, a sponsor’s family member directly receives an access to the labour maker, education (including state-sponsored classes of both official languages - Finnish and Swedish) and vocational training. Furthermore, Finland acknowledges autonomous rights of a sponsor’s family members, and therefore in case of a family break-up, they can be granted an independent residence permit if ‘close ties’ to Finland - namely financial independence through employment - can be proven, and if the said marriage endured for minimum of three years with one year spent in Finland. Similarly, an independent residence permit can be issued under the circumstances of abusive/violent behaviour of a sponsor.

To sum up, one may claim that in terms of the outlined requirements for family reunification, the difference between a TCN sponsor and a sponsor of the Finnish/EU/comparable citizen is not huge. Apart from the income requirement, which applies only to citizens with the nationality of a third country and remains defining for exercising their right to be joined by their family, there are de facto no other specific conditions to be met by a sponsor. Yet again, it shows that the latest version of the Aliens Act was written from a position of positive interpretation of the ‘may-clauses’, outlined in the Directive 2003/86/EC. Left for the national competence, none of those clauses - apart from the provision of income adopted in all the EU member states - were adjusted in a
way to overcomplicate the process of family reunification and to jeopardise sustaining of a family life.

*Latest trends within the Finnish legislation on family reunification*

It would be unreasonable to conclude on the state of affairs of family reunification in Finland without looking at the recent changes that took place within the respective legislation. It becomes particularly important, considering escalation of migration issues in public discourse due to the migrant crisis, which reached its highest peak by the end of 2015 and shattered the usual political correctness. This fracture was well depicted in the statement of the Prime Minister Juha Sipilä, who concluded that ‘[t]he new set of measures will tighten our practices and erase possible attractiveness factors’. Evidently, the very same factors that placed Finland among the top-10 most favourable EU countries for family reunification according to MIPEX - as presented earlier - were no longer seen as positives but rather as a burden. Along the same lines, the Director General of Migri claimed that granting a single residence permit may prompt as many as twenty family reunification applications’, implying the threat awaiting Finland being awash in foreigners in the near future.

From the legislative perspective, family reunification has undergone through multiple amendments starting from 2010, reflecting a growth of applications from family members of beneficiaries of international protection. Considering a complicated nature of processing asylum seekers’ applications, new ways of regulation appeared necessary, which in turn, furthered a problem-tinted discourse on family reunification.

At that time the main group in question consisted of Somali citizens. In order to present the changes in the most comprehensible way, and given that a detailed overview is not

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80 Telegraph.co.uk. (2017). *Finland says asylum seekers should work for free and learn about women's rights.*


82 Closer to the truth..p.155
required for the purpose of the thesis, the author sums up the legislative outcomes that matters the most in the following table:

<table>
<thead>
<tr>
<th>Year</th>
<th>Change to the family reunification</th>
<th>Group mostly affected by change</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010</td>
<td>Specification on age for children applying for family reunification is introduced: a child must be under 18 y.o. when a decision over his/her case is being made. Family members of minor sponsors are not able to apply for reunification as soon as he/she turns 18 y.o.</td>
<td>Beneficiaries of international protection</td>
</tr>
</tbody>
</table>
| 2011 | • Specification on travel documents is introduced.  
• Applicant is required to show proof of legal residency from the country he/she applies from. | Beneficiaries of international protection |
| 2011 | Abolition of government financial support in regards to covering travel costs to Finland | Beneficiaries of international protection |
| 2012 | Introduction of a new type of residence permit that includes biometrical identifiers | Everyone |
It goes without saying that in result of all these legislative amendments, the most affected group was ‘beneficiaries of international protection’. It shows that the Finnish legislation had been targeting them deliberately, even before the outburst of the migration crisis, while its approach towards other TCNs and certainly Finnish/EU/comparable citizens remained almost unchanged and, all in all, remained favourable.

**Conclusion**

In the beginning of the work, the author outlined the main legislative sources of the family migration regulation established on the EU level, such as the Directive 2003/86/EC on the right to EU family reunification and the Directive 2004/38/EC on on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States. It showed that application of either first or second to
family members depends on a resident status of their sponsor within a given state. The Directive 2003/86/EC addresses family member of sponsors of TCN origins, legally residing on the territory of the state. The Directive 2004/86/EC refers to family members of EU citizens, exercising the right to free movement. And finally, family members of static EU citizens are regulated by national legislations.

Later on, the author took a closer look at both Directives. The Directive 2003/86/EC is regarded from a perspective of its ‘may-clauses’ that provide an opportunity for member states to extend or restrict the right to family reunification determined by the chosen interpretation. Further to that, examined in the context of Europeanisation, the Directive 2003/86/EC appears to combine both features of vertical & horizontal Europeanisation, and therefore, proves to have balanced power relations between the EU and national levels.

The Directive 2004/38/EC is viewed with the reference to reverse discrimination that can work against European citizens depending on whether they reside in their state of birth, or in other EU member state. The later case invokes a link to the EU law and may conflict with EU member states’ competence to control the admission of TCN members.

Opening the topic of relationship between state and family, the author demonstrated that a nation state is not willing to recognise the existence and significance of multifaceted family ties and prefer using a common denominator – nuclear family – while managing family migration. Additionally, each EU member state sets a number of requirements, among which the most common are income, accommodation, health insurance, integration courses.

Furthermore, it is discussed that compliance with migration requirements set by a state unavoidably results in dependency between a migrant and a sponsor. It can be of a structural nature, embedded in self-definition and rights of a migrant through his/her sponsor; or of an intimate nature, hindering personal relations between them through emotional hardship and expectations set by a state with regard to family roles based on archaic model of a breadwinner.
It all leads the author to the research part of the work, during which there is an attempt to define Finland’s position on the family reunification. The undertaken research proves that until now, Finland remains a favourable destination for migration. Overall, in terms of the outlined requirements for family reunification, the difference between a TCN sponsor and a sponsor of the Finnish/EU/comparable citizen is not huge. Apart from the income requirement, which applies only to citizens with the nationality of a third country and remains defining for exercising their right to be joined by their family, there are de facto no other specific conditions to be met by a sponsor. It shows that the latest version of the Aliens Act was written from a position of positive interpretation of the ‘may-clauses’, outlined in the Directive 2003/86/EC. Left for the national competence, none of those clauses - apart from the provision of income adopted in all the EU member states - were adjusted in a way to overcomplicate the process of family reunification and to jeopardise sustaining of a family life. However, the author identified that tendency towards unequal treatments of beneficiaries of international protection and other categories of TCNs. Examination of latest trends within the Finnish legislation on family reunification shows deliberate restriction largely aimed at beneficiaries of international protection, taken place from 2010, and therefore even prior to the erupted migration crisis. Given a strong tone of political and social discourse, along with the recent but failed attempts to introduce income requirements for family reunification for Finnish citizens - a very big step backwards, it became obvious that Finland is not content with its current status of a country favourable for family migration, especially of TCN origins. Practically speaking, Finland has a wide scope of tools to restrict the respective policy area with, and eventually to get closer to nearby Denmark in its ‘unattractiveness’ for family migrants, but still remain in compliance with the Directive 2003/86/EC. To mention a few: to raise an age of family members eligible for family reunification, to set a minimum duration of residence of a sponsor within the country, to set the housing criteria, to introduce pre-departure integration measures. The author is inclined to think that some of it will take place in the near
future, however in which way and to what extent - remains a research question for further works.
Bibliography


