

*From Tampere to Stockholm: MIPEX policy impact assessment series*

## WHAT FUTURE FOR IMMIGRANT FAMILIES IN EUROPE:

### THE HIGH ROAD BACK TO TAMPERE OR THE LOW ROAD ON FROM VICHY?

*“Family reunification is a necessary way of making family life possible. It helps to create sociocultural stability facilitating the integration of third country nationals in the Member State, which also serves to promote economic and social cohesion, a fundamental Community objective stated in the Treaty.”*

Preamble 4 to directive 2003/86/EC

#### INTRODUCTION

Since the 1990s, the EU has been discussing how Community law can facilitate family reunion as a vital means of promoting the integration of immigrants. A decade in the making, it has been a story of good intentions but minimal results. Now October 2008 has brought two new developments that could either give this agenda new steam or pull it off track altogether. On the 8th, the Commission published its 1st report on the application of *directive 2003/86* (the directive on the right to family reunion of third-country nationals) after the completion of four extensive monitoring studies.<sup>1</sup> 8 days later, EU heads of state adopted the French Presidency’s *European Pact on Immigration and Asylum* after months of negotiations behind closed doors in national capitals and the Council. While the Commission report reflects on how to improve the directive and its minimum integration standards, the Pact chooses to make no reference to it. Instead, it talks of subordinating the right to family reunion to what Member States decide to be their priorities, needs, and “reception capacities.”

What is most important for policymakers and stakeholders is that both initiatives promise changes that would give the EU a greater impact on national legislation and the security of immigrant families across Europe. The Commission is looking at:

- A more coordinated approach
- A Green Paper consultation of the future of the family reunification regime
- And if necessary, legislative amendments in the form of a proposal for a new directive

The **Migrant Integration Policy Index** is a *standard-setting* and *monitoring* tool about what national governments are doing to promote the integration of legally-resident third-country nationals. The 2nd edition looked at:

- ⊙ labour market access
- ⊙ family reunion
- ⊙ long-term residence
- ⊙ political participation
- ⊙ access to nationality
- ⊙ anti-discrimination

142 policy indicators create a *comparative dataset* of the policies in place as of 1 March 2007 in 25 EU Member States, Norway, Switzerland, & Canada. The areas of policy strength and weakness identified in MIPEX can underpin *prospective impact assessments* as well as *recommendations for policy improvement*.

This is the 1st in a series of MIPEX policy impact assessments on:

- What the EU has done to set legal standards on integration from 1999 – present
- The state of national legislation & recent European trends
- New proposals to raise or lower these standards
- Their potential EU-wide impact

The aim of this brief is to make information on EU policy developments more accessible to a wide range of stakeholders wishing to contribute to future consultations & debates on integration & family life in Europe.

On the Pact, both French minister Hortefeux and European Commissioner Barrot have touted the same line that the EU must move “*du pacte aux actes*.” The Pact invites Member States and the EU institutions to use it as a roadmap to develop a common immigration policy, backed up by an annual report, debate, appropriate resources, and a tracking method.

At this moment of policy evaluation and feedback, this brief uses the *MIPEX* to re-tell the history of the family reunion directive. It forecasts how modifications proposed in the Commission report and the French Presidency Pact would bring the EU closer to, or further from, its vision of promoting integration and how each would concretely raise or lower integration standards in national legislation in 25 Member States.

## FROM VISION TO DIRECTIVE: HOW EUROPE ENDED UP FAR FROM WHERE IT WANTED TO BE

### TAMPERE

In 1999, the Treaty of Amsterdam gave the EU the competence to work on legal integration and the Tampere Presidency Conclusions gave it the vision. The EU heads of state agreed that their goal should be for legally-resident

#### WHAT IS THE TAMPERE VISION OF LEGAL INTEGRATION?

*“The European Union must ensure fair treatment of third country nationals who reside legally on the territory of its Member States. A more vigorous integration policy should aim at granting them rights and obligations comparable to those of EU citizens. It should also enhance non-discrimination in economic, social and cultural life and develop measures against racism and xenophobia.” III.18*

third-country nationals (TCNs) and EU citizens to have a comparable set of rights and obligations, including the right to family reunion. The widely held principle behind the Tampere vision was that legal integration is a first step towards societal integration. Fair treatment and equality of opportunity mean that the legal framework should give TCN migrants and EU citizens the same fundamental rights and chances to participate in the life of their country of residence.

Civil society put forward its proposals for European legal measures (the MPG/ILPA “Amsterdam Proposals”) that would later inspire the European Commission’s own initial proposals. The aim was to establish the highest possible EU standards for achieving Tampere and avoiding a “race to the

### 26 Indicators on family reunion

A country receives a score on each indicator. Each score is then averaged into one dimension score & into the overall strand score.

1. How many years does a migrant need to wait to sponsor?

*What family can he/she sponsor?*

2. a spouse or registered partner?
3. their minor children?
4. their dependent parents or grandparents?
5. their dependent adult children?

= Dimension 1: Eligibility

*To live together, does a family have to pass onerous conditions like:*

- 6-13. Integration/language measures? (*average of 9 indicators on tests/courses/study guides*)
14. Accommodation requirements?
15. Economic resource requirements?
- 16-17. A long & costly procedure?

= Dimension 2: Conditions for acquisition

*How secure are immigrant families in their status?*

18. Length of their permit
19. Grounds to reject applications or withdraw their status
20. Personal factors that must be taken into account
21. Their legal guarantees & avenues for redress

= Dimension 3: Security of status

*Do family members have the same rights as their sponsor to:*

- 22-23. Autonomous residence permits?
24. Access education & training?
25. Work or become self-employed?
26. Access social security/assistance, healthcare, & housing

= Dimension 4: Rights associated

= Family reunion score

bottom” among Member States. The free movement of EU citizens serves as the benchmark for the rights of immigrants from outside the EU.

The Tampere vision also provides the norms for the MIPEX policy indicators (see box). As Table 1 shows, the top position on the MIPEX family reunion strand is 97% based on the right to family reunion of EU nationals, which were brought together in Directive 2004/38/EC. That is, a high-scoring country on the MIPEX rubric upholds equal treatment and equal opportunity for TCNs and EU citizens. The MIPEX normative framework assesses whether domestic and European policy changes have the outcome of levelling up or levelling down the rights and responsibilities of TCNs in each Member State and across the EU. The scores illustrate to what extent governments are providing the first (but not on its own sufficient) step towards societal integration in law and policy, which they can then reinforce with the budgets, programmes, staff, and NGO partners that can facilitate integration and social cohesion.

### How do MIPEX indicators work?

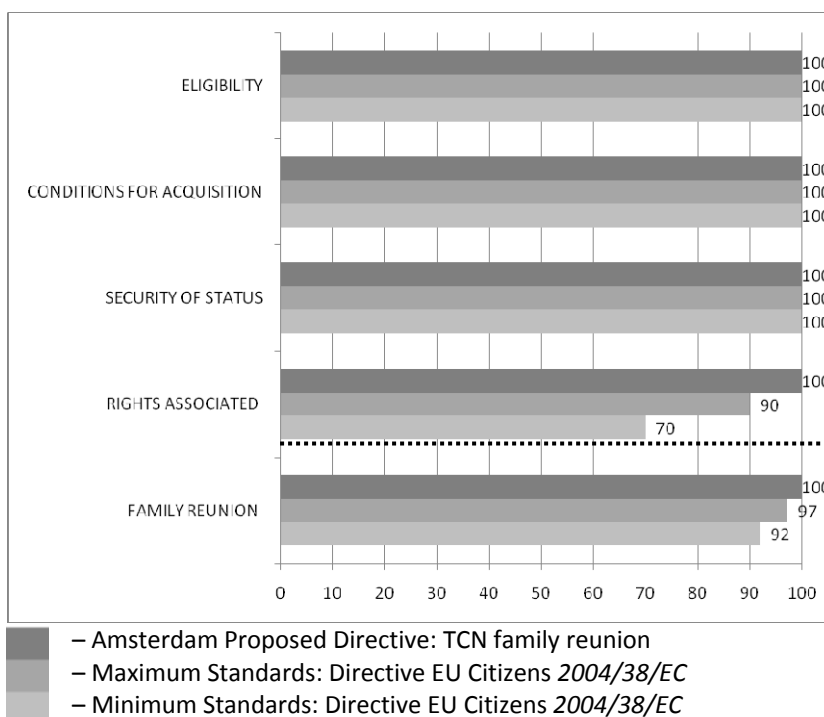
On each indicator, a country can receive 1 of 3 possible scores. **3 points** (translates into **100%**) is awarded to policies meeting the most inclusive European legal standards. For family reunion, this top position corresponds to what EU citizens enjoy when they live abroad in another EU country. A country gets **1 or 2 points (0 or 50%)** on each indicator if they opt for more restrictive policies and the minimum standards allowed under EC directives.

For example, EU citizens can be joined by their spouse or unmarried partner living in a durable relationship. This was also proposed in the initial TCN family reunion directive. By the final version, Member States could choose to exclude unmarried/ registered partners (Art.4§1(a)) & impose a min. age limit of up to 21 (Art.4§5).

Therefore the MIPEX indicator on spouses & partners looks like this:

	3 points (100%)	2 points (50%)	1 point (0%)
Eligibility for the sponsor's spouse and registered partner	Either*	Spouse only**	Age limits apply***
	*2003/86, Art. 4,§3	**2003/86, Art. 4,§1(a)	***2003/86, Art. 4,§5

Table 1: Setting the Tampere standards



1st 3 dimensions based entirely on rights/responsibilities of EU citizens.

They have the right to be joined quickly by their close family...

...Without onerous conditions...

...& with relative security in their right to settle in the country.

MIPEX sets the bar slightly higher on rights associated. The maximum is higher because in countries like BE, CZ, FR, and NL, TCN family members have the right to an autonomous residence permit after 3 years—it's 5 years in the directive for EU citizens 2004/38/EC. The directive allows some minimum standards here with a derogation clause stating that Member States can delay EU citizens' access to social assistance & financial aid for studies.

### FROM TAMPERE TO A COMMISSION PROPOSAL

A MIPEX analysis shows that the Commission’s 1999 initial proposal for an EC Directive on the right to family reunion for TCNs came very close to securing equal treatment for non-EU and EU nationals. The text of this first directive in the field of immigration and integration was a strict and very ambitious reformulation of the existing rules for EU citizens and the Amsterdam proposal:

Table 2: Bringing the EU citizen and non-EU immigrant’s right to family reunion as near together as possible



On eligibility, no min. standards or room for manoeuvre: Same inclusive definition of the family would apply for EU citizens & TCNs

62 = min. standards: TCNs can be asked to prove accommodation/sufficient & stable resources

Another derogation for TCNs: 1st permit can be limited to 1 year

Access to education/employment can be delayed; autonomous permits denied to some family

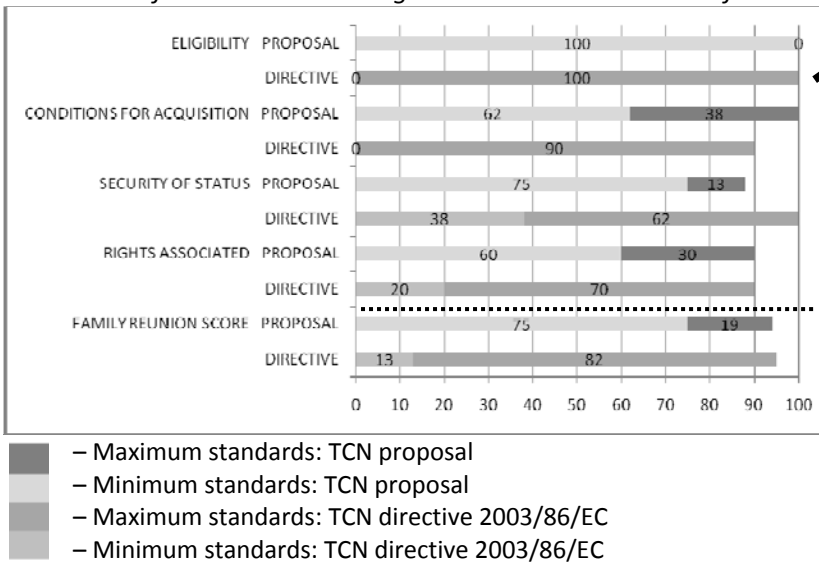
94 = Max. standards & 75 = Min. standards envisioned; Room for manoeuvre to restrict the rights would have been slightly greater for TCNs (19) than for EU citizens (5).

On the maximum standards, the rights of TCNs would have been hardly different (94) from those of EU citizens (97).<sup>ii</sup> The major difference was in the use of derogation clauses (i.e. Member States “may” rather than “shall”), allowing national governments room for manoeuvre to adopt lower standards. A few derogations were initially made possible on security of status,<sup>iii</sup> rights associated,<sup>iv</sup> and, most of all, conditions for acquisition.<sup>v</sup>

### A FINAL “LOWEST COMMON DENOMINATOR” DIRECTIVE

From the proposal to the final Directive, an analysis of the various amendments and 27 derogation clauses demonstrates to what extent the initial *maximum* standards dropped to *minimum* standards during Council negotiations. The high standards are present and better elaborated in the Directive, but many have become optional (Table 3):

Table 3: The final directive: Falling standards and wide room for manoeuvre



The example on eligibility (see box) is indicative of the enormous margin of appreciation left to Member States. This “lowest common denominator” was no better than most countries’ existing legislation—and, in some instances, it was worse. The unintended effect of such derogation clauses was that they could be used to legitimise and broadcast immigration-restriction practices that, though far from the Tampere vision, were often couched “in the name of integration.”<sup>vi</sup>

### HALFWAY TO TAMPERE: HOW A LOWEST COMMON DENOMINATOR HAD LITTLE POSITIVE EFFECT ACROSS EUROPE

On 1 March 2007, MIPEX II found that the family reunion policies in the 25 EU Member States sampled scored only 57 out of 100, which on the MIPEX rubric is equivalent to halfway to promoting integration and meeting the Tampere vision.<sup>vii</sup> The wide range of policy scores tolerated under the EC directive is most striking, with Sweden scoring a 92 and Cyprus a 32. Not only had the Directive watered down the Commission’s initially ambitious standards, but it later had a limited and at times unfavourable effect on national legislation.<sup>viii</sup> The concern is that minimum standards in a politically sensitive area like immigration tend to elicit a “race to the bottom” where “the exception becomes the rule.” This trend on family reunion was observed between MIPEX I (October 2005) and MIPEX II (March 2007) in AT, BE, and FR and has since continued on in others like DE. The evidence from available studies leads the Commission to a similar conclusion; the broad and excessive use of “may” clauses<sup>ix</sup> leaves too much room for lowering standards and national administrative discretion.<sup>x</sup>

### Falling standards: the example of the eligibility dimension

The Commission’s initial proposal envisioned no derogations on eligibility, meaning that TCNs, just like EU nationals, could be joined quickly by their close family members. Under the final Directive, Member States can choose to be so inclusive. Yet they can also choose to:

- Limit sponsors to those who they decide have “reasonable prospects of obtaining the right of permanent residence”
- Exclude unmarried/registered partners, dependent adult children, parents & grandparents
- Impose a minimum age limit of up to 21 on sponsors & spouses
- Impose a maximum age limit of 15 on minor children & impose integration conditions on those over 12.

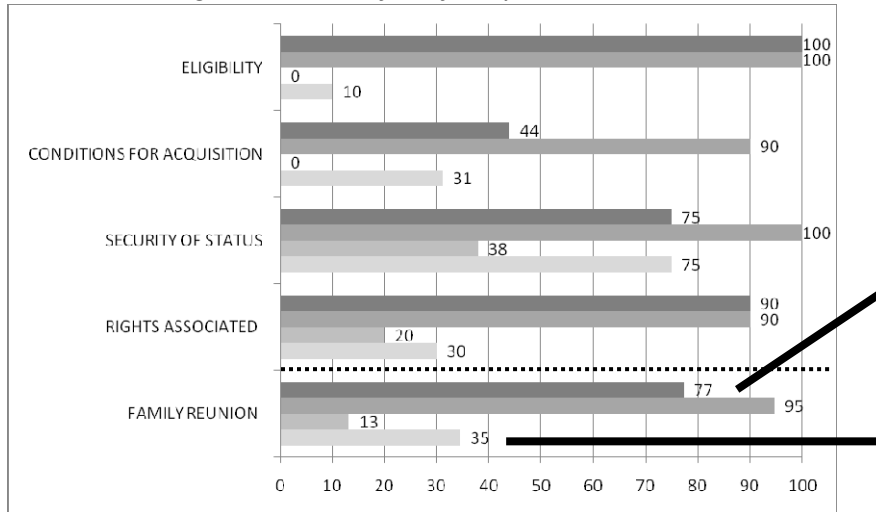


MIPEX II Results: 1 March 2007  
Users can access the publication & generate their own charts & maps @ [www.integrationindex.eu](http://www.integrationindex.eu)

## TWO PROPOSALS FOR CHANGE

The Commission considers the directive to be a “first step harmonisation”<sup>xii</sup> that can later be reopened for negotiation and improved. At this moment though, the EU is presented with two divergent proposals for change:

Table 4: Working on two ends of the family reunion directive



– Max. standards: Pact
  – Max. standards: Directive 2003/86/EC  
 – Min. standards: Directive
  – Higher Min. standards: Comm. report

## FULL SPEED AHEAD TO VICHY?

The *European Pact on Immigration and Asylum* states that family reunion should be adapted as part of a reorientation of legal immigration channels:

“to regulate family migration more effectively by inviting\* each Member State, in compliance with the European Convention for the Protection of Human Rights and Fundamental Freedoms,\*\* to take into consideration in its national legislation, except for certain specific categories,\*\* its own reception capacities and families' capacity to integrate, as evaluated by their resources and accommodation in the country of destination and, for example,\*\*\* their knowledge of that country's language.”

It puts forward three new conditions and one new ground for rejection. TCN residents would be denied the right to live with their family if:

- They do not have stable & sufficient economic resources
- They do not have a certain kind of housing
- They and their family cannot prove that they know whatever the Member State decides to ask them about the country's language, society and culture, even before the family sets foot in one of its towns or cities
- Authorities use the “reception capacity” ground to impose a long waiting period or reject their application out of hand

The French Presidency's interpretation of the Pact would effectively lower the maximum standards set in the Directive on conditions and security of status, which the French Presidency would see as too liberal for its “immigration choisie” agenda.

The Commission report suggests raising the minimum standards on all 4 dimensions on issues that evaluation studies indicate may contravene the Directive's aim to facilitate family reunion as a means to promote integration.

Watering down the Pact: What had to change from the French Presidency's draft to the final text

\* Biggest revision: No longer “European Council wants a better regulation...” Whether the Council uses informal intergovernmental channels or renegotiation of EC law, the effect on national legislation could be just as harmful.

\*\* No mention in the French draft

\*\*\* Added to exempt highly-skilled since as the “Blue Card” proposal states, tests/ courses abroad go against aim of making EU a more attractive place for them to want to live.<sup>xii</sup>

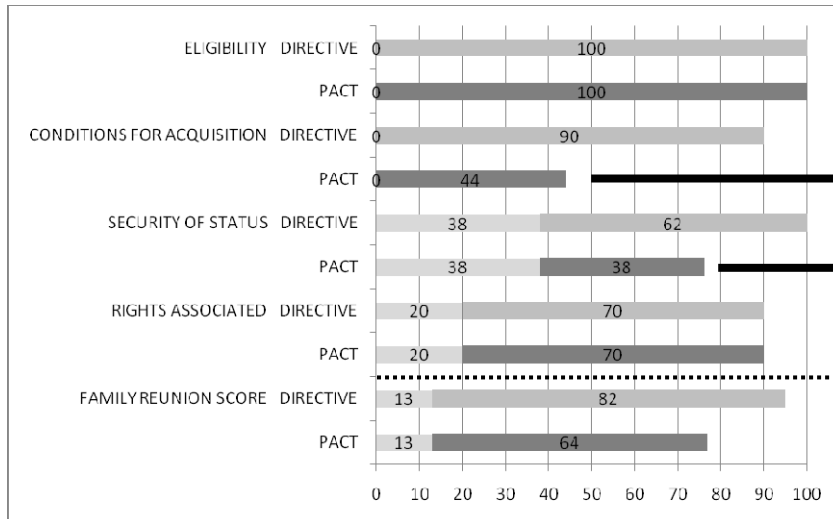
\*\*\*\* This add-on leaves wide open what governments can do on language & integration conditions.

Although FR sees that countries like AT, DK, DE, & NL have recently adopted similar approaches, its Presidency's Pact does not try and clarify what has been unclear and hotly contested in national debates; how do these serious deviations from equal treatment make family reunion a more effective means for promoting integration? Adding more conditions and grounds for rejection has certainly led to a decrease in the number of applications and an increase in the number of rejections. These results suggest that such restrictions make family reunion a more effective means for sanctioning socially vulnerable immigrant residents or refusing entry to family members that those in charge deem "undesirable."

In effect, the French interpretation of the Pact would take the EC Directive's restrictive "exceptions" and make them the "rules" across Europe. It would:

- Limit Member States' ability to adopt more inclusive policies
- Create greater harmonisation towards the bottom
- Put pressure on Member States that facilitate the conditions for family reunion & the security of immigrant families

Table 5: Levelling down: A more selective right to family reunion



– Lower maximum standards: Pact  
 – Existing maximum standards: Directive 2003/86/EC  
 – Existing minimum standards: Directive 2003/86/EC

Following the French interpretation of the Pact would lower integration standards in almost every EU Member State by 6 points on average on the MIPEX rubric (see next page). Most importantly, immigrant families' security in their status would no longer be slightly favourable for promoting their integration (from 62 to 53 for the EU-25), while the conditions would become slightly unfavourable (from 49 to 33).

Countries can currently impose few conditions (90) to facilitate family reunion as a means for promoting integration. The Pact would require three new, potentially onerous conditions (44), making family reunion a halfway reward for those who are already "integrated" and a sanction for those who are socially excluded.

The "reception capacity" ground would lower the maximum standards on security of status from 100 to 76 on the MIPEX framework, reducing the room for manoeuvre of more inclusive states by 24 points.

The only country whose overall MIPEX score would not have to change to respect these new EU rules would, not surprisingly, be France. It would see the rest of the EU harmonising around recent legislation initiated by Nicolas Sarkozy, which served as the model for the Presidency's Pact. The countries that facilitate family reunion the most would be the hardest hit: BE, FI, IT, PL, SI, ES, and SE's legislation would become significantly less favourable. The conditions for acquisition would be restricted in every Member State, with over 15 point drops in 15 countries. The status of immigrant families would become significantly less secure in FI, DE, IT, LU, MT, PL, and ES.

### GETTING BACK ON TRACK TO STOCKHOLM

The Commission report points out not only incorrect transpositions of the directive, but also areas for improvement for the integration standards behind national family reunion policies. If the Commission were to take a lead on these areas, the EU would better guarantee equal opportunities and fair treatment for all immigrant families.

#### Eligibility

- **Age limits** for sponsors/spouses should be the same as those for nationals wishing to marry or form a partnership. The *max. age limit* for minor children should be the country's age of majority.

#### Conditions for acquisition

- **Compulsory integration/language measures** must be proven to be suitable, necessary, and proportionate for pursuing the legitimate aim of facilitating—not discouraging—the reunion and the integration of TCN families. For instance, tests or courses should:
  - Only involve a bare minimum level of language knowledge
  - Have a simple, oral, and multiple-choice format based on a short list of free, publicly available questions.
  - Take individual's abilities into account by being easily accessible and open to exemptions (i.e. age, disability, education level)
  - Come with no or minimal direct/indirect costs to families
  - Tests or courses conducted abroad should be eliminated if they are found to be disproportionately onerous or cost ineffective for promoting integration when compared to various other options like information packs or in-country courses
- **Economic resource requirements** should be reduced if they seriously discourage family reunion, especially for younger people and those in vulnerable situations

Table 6: EU-wide impact of Pact?

	FAMILY REUNION SCORE	ELIGIBILITY	CONDITIONS FOR ACQUISITION	SECURITY OF STATUS	RIGHTS ASSOCIATED	
EU 25 -1.3.07	57	53	49	62	66	↓ > 2 pts
After Pact	51	53	33	53	66	
EU-15	59	51	49	69	69	↓
	53	51	34	59	69	
EU-10	55	55	50	53	62	↓
	49	55	33	45	62	
AT	34	40	10	50	40	↓
	32	40	0	50	40	
BE	61	40	60	75	70	↓ > 7 pts
	48	40	24	63	70	
CA	76	100	38	63	100	↓
CY	32	10	30	63	30	
	27	10	14	63	30	↓
CZ	58	70	40	50	70	
	54	70	24	50	70	↓
DK	33	0	47	38	50	
EE	61	50	50	63	80	↓
	54	50	34	50	80	
FI	68	70	60	88	60	↓
	59	70	34	75	60	
FR	45	30	10	63	80	↓
	45	30	10	63	80	
DE	61	60	40	75	70	↓
	54	60	24	63	70	
GR	41	10	27	63	70	↓
	39	10	17	63	70	
HU	50	80	50	38	30	↓
	46	80	34	38	30	
IE	50	60	80	25	30	↓
IT	79	70	50	100	100	
	69	70	34	75	100	↓
LV	42	40	50	0	70	
	38	40	34	0	70	↓
LT	68	70	60	38	100	
	64	70	44	38	100	↓
LU	50	50	60	75	20	
	41	50	44	50	20	↓
MT	66	70	60	75	60	
	54	70	34	50	60	↓
NL	59	40	46	50	100	
	54	40	26	50	100	↓
NO	66	70	40	63	90	
PL	66	70	40	75	70	↓
	56	60	44	50	70	
PT	84	100	50	88	100	↓
	79	100	40	75	100	
SK	38	30	43	50	30	↓
	35	30	33	50	30	
SI	71	70	60	75	80	↓
	62	70	34	63	80	
ES	66	50	60	75	80	↓
	56	50	44	50	80	
SE	92	100	80	88	100	↓
	77	100	34	75	100	
CH	43	40	35	63	40	↓
UK	61	50	50	75	70	

Note: BL & RO not in MIPEX II. DK, IE, UK (& CA, NO, CH) outside directive's scope.



- **Procedural lengths and costs** should be kept to a minimum to avoid undermining the Directive’s effect of facilitating family reunion

**Security of status**

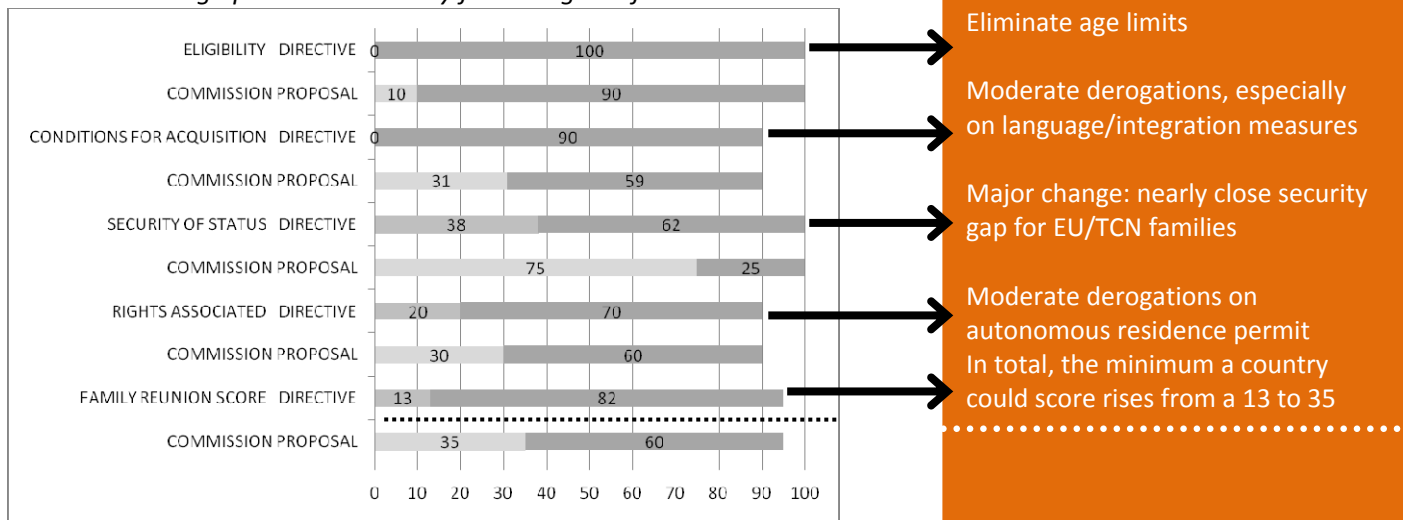
- **The grounds for rejecting, withdrawing, or refusing to renew** should be the same as those for EU nationals. One of the directive’s standstill clauses already precludes the introduction of any notion of reception capacity as a condition in national law<sup>xiii</sup>
- **Factors taken into account** on a case-by-case basis in these decisions must, under law, include:
  - Solidarity of the sponsor’s family relationship
  - Duration of a sponsor’s residence
  - Existing links with Member State & country of origin
  - Best interest of the child
- **Legal guarantees and avenues for redress** must include the right to a reasoned decision, appeal, & effective remedy before a tribunal

**Rights Associated**

- **Autonomous residence permits** must be available after 5 years or less to at least the spouse/partner & children reaching majority

These modifications would maintain the maximum standards, while raising the minimum standards in all 4 dimensions. A renewed directive would reaffirm certain Tampere norms as nonnegotiable for immigrant families in Europe. It would eliminate certain derogation clauses while further ensuring that any others act as facilitators and not as obstacles to family reunion.

*Table 6: Levelling up: Greater security for immigrant families*



Supporting the Commission’s recommendations would modestly improve family reunion policies in nearly every Member State.<sup>xiv</sup> This modified directive would lead to an overall 7 point gain in the 25 EU Member States surveyed. Significant gains (8 or higher) would be made in 8 Member States. Conditions for acquisition would become significantly less exclusionary (20 or higher) in CY, FR, and GR, while families would receive significantly greater legal security and guarantees in the EU-10 countries, especially in LT (50 points difference) and LV and SK (38 points difference). 25 point gains on security of status would also be seen in AT, CZ, LU, MT, NL, PL, and ES. The definition of the family would become slightly more inclusive in DE and NL, while the granting of autonomous residence permits would improve in countries like CY, HU, LU, MT, and SK.

## CONCLUSIONS

A common EU immigration policy is floundering between maximum standards, backed by strong vision and good intentions, and minimum standards, backed by political conveniences. Further instrumentalising EU family reunion policy would undermine the very intention of Community law in this field: making family life possible. National governments tend to fiddle with the definitions of the family, waiting periods, and other conditions for acquisition, whether policymakers’ goal is promoting integration, restricting immigration, or intervening in the interest of perceived economic needs. Often they do this with the hope (or electoral promise) of determining what types and thus how many families can immigrate and settle in their country. Member States with such divergent political goals are unlikely to come to significant new agreement on more selective eligibility criteria and conditions for acquisition. The last round of negotiations demonstrated that Member States, while fighting to retain discretion in these two areas, may be willing to agree on bare minimums for the security and rights of the families granted the right to live with their sponsor in Europe.<sup>xv</sup> The road back to fair treatment and equal opportunities may start by guaranteeing those benefiting from a Community family reunion status the same security, rights, and good governance standards that EU citizens enjoy.

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Table 6: EU-wide impact of a renewed Tampere approach?

	FAMILY REUNION SCORE	ELIGIBILITY	CONDITIONS FOR ACQUISITION	SECURITY OF STATUS	RIGHTS ASSOCIATED	
EU 25 -1.3.08	57	53	49	62	66	↑ > 2 pts
After Comm	64	54	57	77	69	
EU-15	59	51	49	69	69	↑ > 7 pts
	64	53	56	78	71	
EU-10	55	55	50	53	62	↑ > 7 pts
	64	55	59	76	66	
AT	34	40	10	50	40	↑
	45	40	21	75	50	
BE	61	40	60	75	70	↑
	63	40	70	75	70	
CA	76	100	38	63	100	↑
CY	32	10	30	63	30	↑
	42	10	50	75	40	
CZ	58	70	40	50	70	↑
	66	70	50	75	70	
DK	36	0	47	50	50	↑
EE	61	50	50	63	80	↑
	66	50	60	75	80	
FI	68	70	60	88	60	↑
	71	70	60	88	70	
FR	45	30	10	63	80	↑
	53	30	31	75	80	
DE	61	60	40	75	70	↑
	66	70	50	75	70	
GR	41	10	27	63	70	↑
	49	10	47	75	70	
HU	50	80	50	38	30	↑
	58	80	60	50	40	
IE	50	60	80	25	30	↑
IT	79	70	50	100	100	↑
	79	70	50	100	100	
LV	42	40	50	0	70	↑
	53	40	60	38	70	
LT	68	70	60	38	100	↑
	79	70	60	88	100	
LU	50	50	60	75	20	↑
	58	50	60	100	30	
MT	66	70	60	75	60	↑
	76	70	70	100	70	
NL	59	40	46	50	100	↑
	71	50	61	75	100	
NO	68	70	50	63	90	↑
PL	66	70	40	75	70	↑
	71	60	60	100	70	
PT	84	100	50	88	100	↑
	87	100	60	88	100	
SK	38	30	43	50	30	↑
	51	30	53	88	40	
SI	71	70	60	75	80	↑
	74	70	70	75	80	
ES	66	50	60	75	80	↑
	71	50	60	100	80	
SE	92	100	80	88	100	↑
	95	100	90	88	100	
CH	43	40	35	63	40	↑
UK	61	50	50	75	70	↑

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<sup>i</sup> Odysseus Network (2007) Report on the Implementation of Directive 2003/86/EC, not yet publicly available ; European Migration Network (January 2008) Family reunification, <http://emn.sarenet.es/Downloads/download.do;jsessionid=D148D60F2C2A56EF844DD6682B0FE65F?fileID=578> ; Groenendijk, K. et al. (May 2007) The family reunification directive in EU Member States: the first year of implementation, Nijmegen, Centre for Migration Law ; Adam, C. and Devillard, A. (February 2008) Comparative study of the laws for legal immigration in the 27 EU Member States, Brussels, European Parliament, [http://www.iom.int/jahia/webdav/shared/shared/mainsite/law/legal\\_immigration\\_en.pdf](http://www.iom.int/jahia/webdav/shared/shared/mainsite/law/legal_immigration_en.pdf).

<sup>ii</sup> In cases of refusal or withdrawal, only the right to appeal was included in the original proposal. This was corrected 10 months later in the amended proposal with the additional right to a reasoned decision, levelling up the legal guarantees and avenue for redress for TCNs to those currently enjoyed by EU citizens.

<sup>iii</sup> The proposal included the derogation clause that Member States may limit the duration of the family member's first permit to one year.

<sup>iv</sup> MS were allowed to restrict access to education, employment, and an autonomous residence permit for adult children and relatives in the ascending line.

<sup>v</sup> TCNs could be asked to fulfil requirements for having accommodation "normal for a comparable family living in the same region" and for having economic resources "stable and sufficient resources." For EU citizens, the resources of EU Citizens need only to be "sufficient."

<sup>vi</sup> Human Rights Watch (May 2008) The Netherlands: Discrimination in the name of integration: migrants' rights under the Integration Abroad Act, <http://www.hrw.org/backgrounder/2008/netherlands0508/netherlands0508web.pdf>

<sup>vii</sup> For more on the MIPEX results for family reunion, see [www.integrationindex.eu](http://www.integrationindex.eu).

<sup>viii</sup> Groenendijk et al. (2007), 61.

<sup>ix</sup> COM(2008) 610/3, 14. Also see Niessen, J. and Huddleston, T. (2007) Setting up a system of benchmarking to measure the success of integration policies in Europe, European Parliament, [http://www.migpolgroup.com/multiattachments/3669/DocumentName/Benchmarking\\_Integration\\_EN.pdf](http://www.migpolgroup.com/multiattachments/3669/DocumentName/Benchmarking_Integration_EN.pdf), Gross, T. (2005) "Integration of immigrants: the perspective of European Community law," *EJML*, 7, 145-162, Schibel, Y. (2004) Monitoring and influencing the transposition of EU immigration law: the family reunion and long term residents Directives, *European Migration Dialogue*, <http://www.migrant.at/EMD-issue-paper%201.pdf> ; Carrera, S. and Apap, J. (2004) "Family Reunification – a case for annulment before the ECJ?" *CEPS Working Document*.

<sup>x</sup> SEC(2008) 2026, 40-41.

<sup>xi</sup> COM(2008) 610/3, 2.

<sup>xii</sup> COM(2007) 637 final, 11.

<sup>xiii</sup> COM(2008) 610/3, 8.

<sup>xiv</sup> The exception, Italy, is seeing its legislation become more restrictive since the MIPEX mapping on 1 March 2007 with the return of a Berlusconi government.

<sup>xv</sup> Cholewinski, R. (2004) "Family Reunification as a Constitutional Right? Justice and Home Affairs in the EU," *CEPS*. 256-267, John, A. (2004) "Family reunification for migrants and refugees: a forgotten human right?," [http://www.fd.uc.pt/hrc/working\\_papers/arturojohn.pdf](http://www.fd.uc.pt/hrc/working_papers/arturojohn.pdf).