

Human rights aspects of immigrant and refugee integration policies



Issue Paper



COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

ISSUE PAPER

Human rights aspects of immigrant and refugee integration policies

A comparative
assessment in selected
Council of Europe
member states

Issue Paper published by the
Special Representative of the
Secretary General on migration and refugees

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expressed in this work are
the responsibility of the authors and do
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of the Council of Europe.
Council of Europe, March 2019
Printed at the Council of Europe

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Executive summary

The rapid increase in arrivals of migrants and refugees to Europe in 2015¹ brought to light previously existing deficits and accentuated the structural limitations of domestic asylum systems across several European countries. National and local reception capacities were put to the test. In response to the massive number of arrivals, some European countries introduced policies that created new obstacles to the integration of immigrants, asylum seekers, refugees and beneficiaries of subsidiary protection into European societies.

This issue paper is prepared with a view to supporting Council of Europe member states in designing and implementing integration policies which guarantee the human rights and fundamental freedoms of immigrants and refugees in compliance with the European Convention on Human Rights. It provides information on the application of the human rights standards of the Council of Europe and the legal standards of the European Union in the field of integration of immigrants and refugees. It analyses the human rights dimensions of integration policies in 11 Council of Europe member states which were selected on the basis of a combination of criteria including the high numbers of immigrants and refugees, the diversity of integration policies as well as geographical balance. The issue paper examines in particular how the enjoyment of the right to respect for private and family life and the security of residence of immigrants and refugees facilitate and improve integration policies. Through collecting and analysing information in a comparative approach the issue paper serves as a good tool for identifying good integration practices.

Mandatory language and civic integration policies present the highest challenges in the light of human rights standards. This is particularly visible in the phases of practical implementation of such policies, where certain groups of applicants may be more adversely affected by sanctions if they fail to pass integration tests, exams or contracts. This is reinforced by the fact that integration measures are often not well designed for the specific needs of certain applicants and vulnerable groups, which increases the risk of discrimination. Additional conditions such as income thresholds, long waiting periods, housing requirements and reduced financial benefits further restrict family reunion and settlement by making procedures more burdensome and ineffective.

The issue paper concludes by recommending that policies promoting voluntary integration are preferable to obligatory integration policies because the latter may restrict immigrants' and refugees' human rights, increase the insecurity of residence for applicants and their families and present some discriminatory effects. Council of Europe member states should invest in voluntary and long-term integration policies aimed at overcoming legal and practical barriers to labour market insertion and securing adequate entitlements to health care services and housing for a dignified quality of living by immigrants and beneficiaries of international protection. This should go hand-in-hand with the development of robust and independent evaluation systems keeping track of the actual impacts and long-term effectiveness of current integration policies and their full compliance with human rights standards.

Chapter 1

Introduction

This issue paper examines the human rights dimensions of integration policies in selected Council of Europe member states, namely Denmark, France, Germany, Greece, Hungary, Italy, Portugal, Sweden, Turkey, the Russian Federation (“Russia”) and the United Kingdom (UK). It provides a comparative socio-legal assessment of the scope, goals and outcomes of their recent integration policies in the light of the human rights standards laid down in the European Convention of Human Rights and Fundamental Freedoms (hereafter “the Convention”), primarily those developed by the European Court of Human Rights, as well as other Council of Europe standards. Some of the states covered are also members of the European Union (EU). When dealing with these countries, the analysis takes into account relevant EU legal standards. The Court of Justice of the European Union (hereafter CJEU or “the Luxembourg court”) has developed principles to test the legality and fundamental rights compliance of integration policies falling within the EU *acquis*.

The concept of integration lacks a commonly agreed understanding. It is not a clear-cut term. In the Council of Europe context, social integration has been anchored in the protection of individuals’ human dignity,² non-discrimination and participation in the host societies. It has been understood as a two-way process and the Parliamentary Assembly of the Council of Europe (PACE), in Resolution 2176 (2017), has stated that integration is “an ongoing process rather than a final destination, depending on constructive tripartite engagement between the authorities, the host community (especially civil society) and the refugees”;³ focusing not only on immigrants themselves but also on the responsibilities of the receiving societies and state authorities. The Committee of Ministers of the Council of Europe has called for integration policies that “respect the cultural diversity of society, and always avoid stigmatisation of migrants and persons of immigrant background.”⁴

Integration takes additional shapes when applicable to asylum seekers, beneficiaries of subsidiary forms of protection and refugees. Effective national reception conditions and policies and high standards of treatment have profound implications for asylum seekers’ successful integration. For those recognised as refugees, or accorded some other kind of international protection status, integration policies ensuring longer-term and up-to-standard reception and living conditions in light of the socio-economic rights enshrined in the 1951 UN Convention relating to the Status of Refugees (Geneva Convention), and its 1967 Protocol, have been considered crucial to ensure durable solutions for refugees.⁵

There is consensus that the notion of integration entails a multi-dimensional and multi-actor process of participation, interaction and understanding, encompassing societies as a whole.⁶ Council of Europe member states present their own specific historical, political and constitutional settings and migration backgrounds. These often determine the approaches underlying their migration and, where they exist, integration policies.⁷ There has been an increasing trend since the start of the present century for national integration policies to comprise both a “civic” dimension (ways of life and values) and/or a language proficiency component.⁸ These policies may take the form of tests, programmes, agreements, courses or contracts. Depending on their exact framing, they may function as a tool for the state to limit or restrict family reunification and permanent settlement in the receiving country. By doing so, they may pose human rights challenges.⁹

This issue paper addresses four main research questions: first, what are the key human rights standards at stake when restrictive integration policies are applied to immigrants and refugees? Second, which national policies on integration exist in the selected Council of Europe countries? What are their form and content? Are they voluntary or obligatory? What are the implications of failing to pass a mandatory integration policy requirement? Third, what are the human rights implications of restrictive integration policies? The focus is on integration policies which set out conditions or requirements to be met by third-country nationals in order to benefit from family reunification or to obtain long-term residence; and fourth, are there any national integration practices presenting positive features or constituting “promising practices” in facilitating and fostering socio-economic inclusion and human rights?

Integration policies are here understood as national public policy measures featuring one or more of the following components: civic integration and language requirements; and other related policies limiting or providing sanctions affecting the enjoyment of family reunification and long-term residence by third-country nationals, including access to employment, social benefits and social assistance. The issue paper covers integration policies with regard to immigrants or third-country nationals without a claim to international protection as well as refugees and beneficiaries of subsidiary protection. However, nationals of countries which are members of the EU and who qualify as European citizens, their third-country family members, third-country nationals in an irregular situation, national minorities and stateless persons fall outside the scope of this analysis.

Sections 2 and 3 lay down comparative benchmarks by synthesising the main human rights standards of relevance to integration policies, in particular the Convention, as interpreted by the European Court of Human Rights, the European Social Charter and other non-legally binding Council of Europe instruments, as well as EU standards. Section 4 provides a comparative account of integration policies and measures concerning family reunification and long-term permanent residence in selected Council of Europe member states. The human rights implications of these policies are examined in Section 5, which also identifies a set of promising national practices in the selected Council of Europe countries where integration policies foster socio-economic inclusion.

Chapter 2

Council of Europe standards

2.1. The European Convention on Human Rights and the European Court of Human Rights case law

Given the specific objective of this issue paper to analyse the restrictive aspects of migrants' integration policies, the focus is on the right to respect for private and family life (Article 8)¹⁰ and the prohibition of discrimination (Article 14), which may be affected, directly or indirectly, by policies or measures setting requirements regarding family reunification and long-term permanent residence.

2.1.1. Right to respect for private and family life

Even though the Convention does not stipulate the right of entry to a Council of Europe member state for immigrants' family members per se, the European Court of Human Rights case law has provided protection in two distinct types of cases under Article 8 of the Convention: first, when disproportionate restrictions in the context of deportation/expulsion result in a break-up of family unity; and second, in cases of refusal of entry for the purposes of family reunification.

Many of the expulsion cases under Article 8 of the Convention concerned long-term residents, and therefore their integration was an important factor in the reasoning of the Court. Since the 2000 case *Boultif v. Switzerland*,¹¹ the European Court of Human Rights has developed a set of criteria when assessing such applications, some of which are linked to the degree of integration of the individual in the receiving state, in particular: the duration of the individual's stay; his/her family situation; and the difficulties that would be faced by the spouse in the country of origin, thus assessing the difficulty of the spouse's re-integration.

Two additional factors were added by the Court on the basis of the 2005 *Üner v. the Netherlands* judgment:¹² first, the best interests and well-being of the children with regard to difficulties that children are likely to encounter in a country to which the applicant is likely to be expelled; and second, the solidity of social, cultural and family ties with the host country and the country of destination, making integration an express criterion to be applied by the courts. By doing so, the European Court of Human Rights acknowledged that the connections and relationships of long-term residents in the country of residence warrant protection as private life irrespective of the existence of family life. More specifically, the Court held that Article 8 of the Convention protects "the right to establish and develop relationships with other human beings and can sometimes embrace aspects of an individual's social identity". It added that "it must be accepted that the totality of social ties between settled migrants and the community in which they are living constitute part of the

concept of 'private life' within the meaning of Article 8". This means that the longer the person resides in a specific country, the stronger the ties are with this country and the higher the responsibility of the state is to ensure security of residence.

The European Court of Human Rights considers a number of additional factors that are relevant to the integration of immigrants, such as: (attempts to gain) acquisition of nationality,¹³ links to the country of nationality,¹⁴ language¹⁵ and labour-market integration.¹⁶

The European Court of Human Rights case law in the ambit of admission cases under Article 8 of the Convention¹⁷ shows that states generally benefit from a wider margin of appreciation in family reunification cases than in expulsion cases. The Court's case law has so far emphasised that states have the right to manage the entry of non-nationals into their territory. As the Court held in *Gül v Switzerland*,¹⁸ Article 8 of the Convention does not contain a general obligation by the contracting parties to respect the choice by married couples as to where to reside and settle. Therefore, restrictive migration policies in this context do not typically constitute a violation of Article 8. In most instances they are considered to pursue legitimate aims and the European Court of Human Rights has not entered into a scrutiny of their legitimacy in the light of their effects on groups of individuals, including discrimination.

The Court's traditional approach has been to establish whether it is reasonable to expect immigrants to relocate their family life elsewhere, unless they can prove that there are serious obstacles to the exercise of family life in the country of origin. Since 1985 there has been no judgment departing from this "elsewhere doctrine" as originally established in the case *Abdulaziz, Cabales and Balkandali v. the UK*.¹⁹ The ties with the country of origin, which are part of this same doctrine, have played a decisive role when weighing the interests of the applicants to enjoy family life and the power of the state to manage migration as part of the Court's proportionality test.

Applicants should prove that they cannot enjoy their right to family life elsewhere, even when the case involves children that have been left behind.²⁰ The Court's approach in cases involving children left behind largely depends on the specific circumstances of each particular case. A first example of refusal of admission on family grounds which was held to be contrary to Article 8 of the Convention was the 2001 *Sen v. the Netherlands* case.²¹ The European Court of Human Rights decided that the refusal to allow a Turkish minor to join her parents and family in the Netherlands breached the Convention.

This and subsequent cases²² show that the circumstances of the applicant will need to be rather extreme and mainly based on his/her specific situation for a complaint on a denial of family reunion to be upheld. One circumstance in which the Court seems to find that insurmountable obstacles to settling in the country of origin exist is where the applicant has started a family in the host country and other children have been born and brought up in his/her country of origin. In such cases the Court has acknowledged that, as a result of the host state's decisions, applicants must choose between their children in the host country and those in the home country.²³

With regard to integration, the European Court of Human Rights considers the extent of the child's cultural and linguistic links to the country of origin in determining the

feasibility of developing family life in that country,²⁴ the child's degree of dependence on the parents²⁵ and children's ages.²⁶ Concerning the family reunification of refugees, the Court has developed a distinctive jurisprudential approach, with strengthened protection of the right to family life, which includes reunion: family reunification is here recognised as the only way to protect the right to respect for the family life of refugees.²⁷ It means that the "elsewhere doctrine" cannot be applied, given the predicament of refugees. As the Court clarified in *Mengeshu Kimfe v. Switzerland*, in the case of refugees and others who are non-removable or not expellable there are *ipso facto* insurmountable obstacles to establishing family life in their country of origin.²⁸

2.1.2. Prohibition of discrimination

Article 14 of the Convention constitutes an equally central Council of Europe standard when assessing integration policies. Its objective is to provide protection from discrimination in the enjoyment of the rights and freedoms safeguarded by the Convention on any ground, such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status. While Article 14 is applied in conjunction with other substantive rights that are enshrined in the Convention it is applicable, as was clear in the 2000 case *Thlimmenos v. Greece*, when the facts of a case fall within the ambit of another substantive provision of the Convention or its Protocols. This means that a policy that raises questions about one of the Convention's substantive provisions, though without violating that provision, may violate Article 14 when read in conjunction with that provision.

Article 14 is supplemented by Protocol No. 12 of the Convention, which provides for a general prohibition of discrimination by its Article 1, extending the scope of protection to any right set forth by law. The number of state parties that have ratified the Protocol is still rather low.²⁹

The issue of non-discrimination in relation to integration was crucial in *Biao v. Denmark*.³⁰ The case dealt with the Danish legislation for granting family reunification and its compliance with the Convention. The Danish Aliens Act envisages an attachment requirement according to which family reunion can be granted only if the applicant spouses – including both Danish nationals and foreigners – have aggregate ties to Denmark which are deemed to be stronger than those to any other country in the world where they may originate from. This "elsewhere" criterion was later complemented by another rule exempting from this requirement Danish nationals applying for family reunification who had been nationals for a period of 28 years.

The European Court of Human Rights ruled that the Danish law constituted an unjustified discrimination between citizens on the basis of ethnic and/or national origin and declared it incompatible with Article 14 of the Convention. It found that while immigration control measures may be held compatible with Article 8/2 of the Convention, this does not mean that they are equally in compliance with Article 14 of the Convention. Hence, the European Court of Human Rights upheld the principle according to which Article 8 of the Convention cannot be considered to impose on a state an obligation to respect a family's choice of country for their residence or to authorise family reunification.

What makes this case particularly relevant for this issue paper is that the European Court of Human Rights used the *D. H. and Others* standard³¹ and analysed the legitimacy of the aim pursued by the Danish national reunification rules not its proportionality. In *D. H. and Others v. Czech Republic* the Court had concluded that discrimination may occur where a general policy or measure has disproportionately prejudicial effects on a particular group. The legal assessment by the Court did not cover only individual impacts on a particular measure, but also any group effects.

The *Biao* case shows how in these situations the European Court of Human Rights tends to shift the burden of proof to states to provide stronger justifications and evidence proving the human rights compliance of their migration policies. The Court called on Denmark to support and provide evidence for justification of the differential treatment that would not amount to discrimination among nationals depending on national and ethnic origin. The Court's indirect discrimination case law has gone beyond an assessment of the specific circumstances of an applicant in a case of family formation. Increasingly, the legitimacy of national migration policies is scrutinised.

2.2. The European Social Charter

The standards laid down in the Revised European Social Charter, in particular Article 19 (6) (the right of migrant workers and their families to protection and assistance), are equally central when evaluating integration policies. This article stipulates that the parties undertake to “facilitate as far as possible the reunion of the family of a foreign worker permitted to establish himself in the territory”. In its Preamble, Recital 16 highlights that family is a fundamental unit of society and needs to be protected to ensure its full development. The European Committee of Social Rights, which assesses whether state parties are compliant, in both law and practice, with the provisions of the European Social Charter,³² constitutes an important source of additional standards with regard to family reunification and integration requirements. In its conclusions examining member countries' restrictions on family reunification, the Committee has stated that:

First, pre-departure or in-country integration requirements – such as mandatory language and civic integration tests abroad – for family members that must be satisfied in order to be allowed to enter the country or to be granted residence permit constitute a restriction that is likely to deprive the obligation enshrined in Article 19 (6) of its substance and it is thus not compliant with the provisions of the European Social Charter.

Second, a waiting period of more than one year is not compliant with the European Social Charter;³³

Third, concerning age limitations, family reunification must be possible for children between 18 and 21 years old;³⁴

Fourth, a requirement for suitable housing should not be so restrictive so as to prevent family reunification;³⁵ and

Fifth, migrant workers who have a sufficient income to provide for their family members should not be automatically denied the right to family reunification on the basis of the origin of such income, insofar as they are legally entitled to benefits they may receive.³⁶

2.3. Other Council of Europe standards and recommendations

Council of Europe bodies have delivered a wealth of recommendations and resolutions covering various human rights aspects related to integration and migration policies.³⁷ While they may not be legally binding for Council of Europe countries, they provide guidance with strong interpretative weight to member states when designing and implementing their integration policies with due regard to legally binding human rights standards.

Recommendation CM/Rec(2011)1 on interaction between migrants and receiving societies³⁸ recommends that member states foster improved opportunities for diverse and positive interactions between migrants and receiving societies. On the basis of an understanding of integration “as an interactive process based upon mutual willingness to adapt of both migrants and the receiving society”, the recommendation called for the development of tailored policies supporting these interactions.

Recommendation CM/Rec(2011)13 on mobility, migration and access to health care³⁹ recommended that Council of Europe member states ensure the provision of adequate entitlement to migrants to use health services meeting their needs and simplifying accessibility procedures. Programmes for migrants should be aimed at improving knowledge about health and illness, the way the health system works and entitlement to health services. In order to be effective, such programmes should be carefully designed and targeted. The recommendation underlined the need for states to improve “health literacy”, taking into account migrants’ own concepts and values concerning health.

Recommendation CM/Rec(2015)1 on intercultural integration underlines that migrant integration is ineffective and unsustainable without appropriate diversity management strategies. Such strategies should ensure that democratic institutions are designed for culturally diverse communities and managed by culturally competent individuals and teams. It supports the search for novel approaches to diversity management that enable the realisation of the advantages of diversity, recognising that such an approach – called intercultural integration – has been developed through a process of structured policy review, peer learning and evaluation in the context of the Intercultural Cities programme.

The two-way process paradigm is emphasised in Recommendation CM/Rec(2008)10 on improving access of migrants and persons of immigrant background to employment.⁴⁰ It is through the successful social, economic, cultural and political integration of migrants and persons of immigrant background that they can realise their full potential. The recommendation acknowledged the existence of many obstacles for immigrants to have access to the labour market in receiving countries, and that “these obstacles may result from persistent discriminatory practices”. It underlined the importance of ensuring the fullest possible integration of migrants in the labour market. It further identified a number of practical obstacles which exclude immigrants from labour-market participation, such as insufficient command of the language of the receiving society, absence of procedures on qualifications and skills recognition, and discrimination by employers.

In order to overcome these legal and practical barriers and facilitate labour-market inclusion, the recommendation encouraged member states to provide voluntary “short introductory measures” providing immigrants with the minimum linguistic skills, practical information and knowledge of the receiving society and its labour market. It also called for “introductory programmes”, individually tailored, providing practical information on access to social and economic rights, information on relevant administrative procedures on labour-market access, language training, mentoring and personal follow-up of individual actions and career paths. Importantly, the Committee of Ministers recommended member states to regularly and properly evaluate the results of these programmes and their effectiveness, and if necessary modify accordingly their content.⁴¹

Recommendation CM/Rec(2002)4 on the legal status of persons admitted for family reunification⁴² recognised that family reunion is an integral part of a coherent immigration and integration policy, and recommended member countries to provide a secure residence status for the family members of immigrants. Family members should be autonomous after four years of regular residence in the country, which should go hand-in-hand with effective protection against expulsion, and they should be granted equality of treatment with nationals.

The Parliamentary Assembly of the Council of Europe (PACE) has been equally prolific. In its Resolution 1973 (2014) on integration tests helping or hindering integration,⁴³ PACE underlined, *inter alia*, that language proficiency levels set in these tests should be attainable and differentiated with regard to what is expected of migrants in terms of speaking, listening, writing and reading abilities. Testing has to take into account the needs and abilities of those who do not have the same levels of literacy and education, or those who may be in a position of vulnerability, such as the elderly and refugees. Wherever possible the state should support preparatory courses free of charge for migrants. Appropriate measures should be taken to ensure that failure rates in the tests, which can be high, do not have a discriminatory effect and do not lead to exclusion or a state of limbo for those who do not succeed or to denial of the right to family reunification, permanent residence rights or citizenship.

PACE Recommendation 1686 (2004) on human mobility and the right to family reunion merits attention. The recommendation identified a trend in certain member states to revise their immigration policy and impose tighter restrictions on the right to family reunion. It considered that certain provisions making applications subject to financial and housing-related conditions, integration criteria or age limits could pose a threat to the right to respect for family life, and reinforce the risk of social exclusion of certain nationals of non-EU member states.⁴⁴ PACE recommended that the Committee of Ministers increase its monitoring of compliance by member states with international human rights instruments regarding family reunion.

PACE Resolution 2176 (2017), on integration of refugees in times of critical pressure: learning from recent experience and examples of best practice, called on member states to demonstrate political courage in finding sustainable solutions for the integration of refugees in their societies. It condemned any form of discrimination against migrants and called for provision of effective legal and political accountability for integration processes at national and local levels. The resolution underlined that

family reunification constitutes an integral part of successful integration and should not be subject to additional obstacles, suspensions or other measures causing delay in reunification.

The Council of Europe Commissioner for Human Rights has also put forward a number of recommendations of direct relevance when examining the human rights compliance of family migration policies:⁴⁵

1. Ensure that family reunification procedures for all refugees are flexible, prompt and effective.
2. Strengthen the position of children in the family reunification process (e.g. by ensuring that the best interests of the child are a primary consideration in all family reunification decisions).
3. Avoid discrimination between families formed before flight and after.
4. Ensure that family reunification processes are not unduly delayed: waiting periods of over one year are inappropriate for refugees and for their family members; such periods must be justified in the individual case and must be in accordance with law, pursue a legitimate aim and be necessary and proportionate in the circumstances.
5. Avoid imposing onerous integration conditions, such as the passing of excessively difficult integration tests in the country of origin as a condition of reunification.
6. Resort to DNA testing to verify family relationships only where serious doubts remain after all other types of proof have been examined or where there are strong indications of fraudulent intent and DNA testing is considered the only reliable recourse to prove or disprove fraud.

Chapter 3

European Union standards

Rellevant provisions to the integration of immigrants under the EU Charter of Fundamental Rights (EUCFR) include the right to respect for private and family life (Article 7), equality before the law (Article 20) and the prohibition of any discrimination “based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation” (Article 21). Importantly, Article 52 EUCFR allows the EU to grant higher standards of protection, such as the existence of a right to family reunification, through EU secondary legislation.

This section starts by examining some key integration requirements in EU migration and asylum law (Section 3.1). It then provides an analysis of the principles for testing the legality of mandatory integration requirements under EU law which have been developed by the Luxembourg court (Section 3.2).

3.1. Integration requirements in EU migration law

Several EU migration law directives address integration issues, mostly in relation to equal treatment, access to employment, education, secure residence and the right to family reunification. Long-term residency status and family reunification have been traditionally considered in EU policy as key ingredients for successful integration, which is reflected in the preambles of both the Family Reunification Directive and the Long-term Residence Directive. Integration provisions can also be found in the EU Blue Card Directive, partially in the Researcher and Students Directive, and in the Qualification Directive, which sets out criteria for applicants to qualify for refugee status or subsidiary protection.

The 2003/86 Family Reunification and the 2003/109 Long-term Residence directives foresee specific clauses on integration requirements, which set out criteria for third-country nationals to have access to rights and guarantees, such as taking obligatory language or civic integration courses or passing such tests. Different formulations of these integration clauses are used in the directives, which have been subject to CJEU case law. These clauses can be referred to as integration measures or integration conditions. There are significant differences between these two notions in the scope of EU law. These differences generally concern the degree of restrictiveness and whether it is possible to apply obligatory – instead of voluntary – integration tests, exams or programmes.

3.1.1. The Family Reunification Directive: an EU right to family reunification

The 2003/86 Directive sets out integration requirements applicable to sponsors and their family members. According to Article 2(c) of the directive, a sponsor is a third-country national who resides lawfully in a member state and applies, or whose family member applies, for family reunification in order to be joined with him/her. Sponsors need to hold “a residence permit issued by an EU member state for a period of validity of one year” or have “reasonable prospects of obtaining the right of permanent residence, if the members of his or her family are third-country nationals of whatever status” (Article 3 of the directive). “However, holders of residence permits issued for a specific purpose with a limited validity and that are not renewable cannot, in principle, be considered to have a reasonable prospect of obtaining the right to permanent residence.”⁴⁶ Stays of less than a year such as those of temporary or seasonal workers and residence permits that are valid for less than one year are thus excluded from the scope of this directive.⁴⁷

Under Article 4(5), member states may also require sponsors and their spouses to be of a minimum age, which is typically 21 years old, before the spouse is able to join him/her. This requirement may only be used to ensure better integration and to prevent forced marriages in member states.⁴⁸ Before authorising the entry of family members, member states have the discretion to impose additional requirements. These conditions concern public policy, public security or public health,⁴⁹ normal accommodation,⁵⁰ sickness insurance,⁵¹ “stable and regular resources”⁵² to maintain the sponsor and his/her family member and a waiting period of up to two years before his/her family members can join the sponsor.⁵³ This list of conditions should be interpreted as being exhaustive in line with the CJEU *Chakroun* judgment.⁵⁴

Furthermore, member states may, under Article 7(2), require family members to make a certain effort to demonstrate their willingness to integrate, for instance, by requiring participation in language or integration courses, prior to or after arrival or to make the necessary efforts to be able to live their day-to-day life in society. Member states can verify whether these persons show the required willingness to integrate in this new environment. They may require evidence that these requirements are fulfilled, based on a reasonable prognosis.⁵⁵

With respect to refugees and their family members, the integration measures under Article 7(2) of the directive may be applied only once the persons concerned have been granted family reunification (so not when they are still abroad in the country of origin). The waiting period⁵⁶ and the requirements concerning accommodation, sickness insurance and sufficient resources are waived.⁵⁷

However, the directive allows member states to limit these favourable conditions. Without prejudice to international obligations, where family reunification is possible in a third country with which the sponsor and/or family member has special links, member states may require provision of evidence that the refugee fulfils the requirements of Article 7 concerning accommodation, sickness insurance, sufficient resources and integration measures. Member states may also require the refugee to

meet the conditions referred to in Article 7(1) if the application for family reunification is not submitted within a period of three months after the granting of refugee status.

Once they have been granted family reunification status, family members are entitled in the same way as the sponsor to access to employment and self-employment activities.⁵⁸ Member states may subject their labour market access to a waiting period of up to 12 months in which they can apply a labour-market test before authorising the exercise of an activity.⁵⁹

3.1.2. The EU Long-term Residence Directive: settlement as integration

Third-country nationals, refugees and beneficiaries of international protection⁶⁰ who have resided legally and continuously within the territory of a member state for five years have the right to EU long-term residence status.⁶¹ Article 5 of the EU Long-term Residence Directive contains two mandatory requirements for acquiring this status: stable and regular resources which are sufficient to maintain the long-term residency applicant and the members of his/her family, without recourse to the social assistance system of the member state concerned, and sickness insurance.⁶² These conditions should be interpreted in the light of the principles laid down by the CJEU in the *Chakroun* case, taking into account the needs of the individual and not setting a standard amount below which an application will be refused, and considering the income of the family members when assessing the requirement of sufficient resources.⁶³

Member states can apply optionally “integration conditions” in accordance with national law, which may correspond with obligatory language exams and civic integration tests on life and “knowledge of the host society”.⁶⁴ In the *P and S* judgment, the CJEU stated that the requirement to pass a civic integration test ensures that the third-country nationals acquire knowledge of the language, which is useful for their integration in the host member state, and this does not jeopardise the achievement of the objectives pursued by the directive.⁶⁵ However, the CJEU stressed that member states need to have regard to the level of knowledge required to pass the civic integration examination, the accessibility of the courses and material necessary to prepare for that examination, the amount of fees applicable to third-country nationals as registration fees to sit that examination and specific individual circumstances, such as age, illiteracy or level of education.⁶⁶

The directive also contains “integration measures” as part of the provision specifying the conditions for residence of a long-term residence permit holder in a second member state (Article 15(3)). This shall not apply where the third-country nationals concerned have been required to comply with integration conditions in order to be granted long-term resident status. In such cases, applicants can only be required to attend language (not civic) integration courses. EU long-term residence holders enjoy equal treatment with nationals as regards access to employment and self-employed activity, which means that they have free access to the labour market, provided that such activities do not entail even occasional involvement in the exercise of public authority.⁶⁷

3.1.3. Other relevant directives

Article 15(3) of the Blue Card Directive,⁶⁸ which applies to highly qualified third-country workers, Article 26(3) concerning researchers in the Researchers' and Students' Directive⁶⁹ and Article 19 (3) of the ICT Directive⁷⁰ legislate a privileged access to family reunification in the EU. They provide that the integration conditions and measures contained in the last subparagraph of Article 4(1) and Article 7(2) of the Family Reunification Directive can be applied only after the family members have been granted a family reunification permit. This prevents member states from applying pre-entry integration requirements to these categories of third-country nationals.

The Researchers' and Students' Directive contains further mandatory integration requirements:

1. an obligation to prove sufficient knowledge of language (e.g. for students under Article 11(1)(c) and for au pairs under Article 16(2)(a) of the Researchers' and Students' Directive);
2. an obligation to attend a language course for trainees under Article 13(d) of the Researchers' and Students' Directive similar to the one provided for a long-term residence permit holder moving to a second member state under Article 15(3) of the EU Long-term Residence Directive; and
3. a requirement to receive basic language training and knowledge of society (for volunteers under Article 14(1)(d) of the Researchers' and Students' Directive).

The Qualification Directive⁷¹ refers to the term "integration programmes" in Article 33, which contains a right to access integration programmes for refugees and beneficiaries of international protection in order to facilitate their integration. Member states shall ensure access to such programmes as they consider to be appropriate so as to take into account the specific needs of beneficiaries of refugee status or of subsidiary protection, or shall create preconditions which guarantee access to such programmes. This directive needs to be read in conjunction with the Reception Conditions Directive, which provides a harmonised set of standards and modalities for applicants of international protection to have access to housing, food, clothing, health care, education for minors and access to employment, including financial allowances or vouchers, and a daily expenses allowance.⁷²

3.2. Principles applicable to integration requirements under EU law

The case law of the CJEU on integration measures and conditions contained in the Long-term Residence and Family Reunification directives (briefly explained above) provides a toolbox to determine the legality of integration policies in the light of EU law and the EUCFR. The Court has focused on examining whether the goals and practical effects of such policies facilitate or rather disrupt family life or whether they improve or decrease migrants' security of residence. In the background of these questions is the extent to which national integration policies undermine the *effet utile* or effectiveness of these very directives. The standards emerging from this case law can be summarised as follows:

1. Integration policies should aim to facilitate and promote family reunification.

2. They should not constitute an additional restriction to family reunification and thus unlawfully pursue migration-control goals aiming to filter and limit family reunification.⁷³ The European Commission stressed in its guidance that automatic refusal of family reunification due to failure in the integration examination could amount to a violation of Article 17, Article 5(5) and Article 8 of the Convention.⁷⁴
3. Integration policies should allow for individualised case-by-case assessment in view of specific circumstances, such as “age, illiteracy, level of education, economic situation or health”,⁷⁵ and must comply with the Charter.⁷⁶ In addition, member states should provide the effective possibility of an exemption, a deferral or other forms of integration measures in cases involving certain specific issues or personal circumstances of the immigrant in question.⁷⁷ Specific individual circumstances that may be taken into account are: cognitive abilities, the vulnerability of the person in question, special cases of inaccessibility of teaching or testing facilities, or other situations of exceptional hardship, such as for instance countries of origin, where women and girls have less access to education and might have a lower literacy level than men and boys.⁷⁸
4. Restrictions must be interpreted restrictively and should not make the exercise of the rights guaranteed by the EU migration law too difficult to exercise in practice, especially when they are based on derogations to EU rights and fundamental freedoms of third-country nationals.
5. Integration policies should be proportional, and the proportionality test criteria should cover their accessibility, design and organisation.⁷⁹ With regard to family reunification, a policy would be disproportionate if the application of that requirement were systematically to prevent family reunification of a sponsor’s family members where, despite having failed the integration examination, they have demonstrated their willingness to pass the examination and they have made every effort to achieve that objective.⁸⁰

Chapter 4

Integration policies in selected Council of Europe member states

This section outlines relevant integration policies and related requirements in the selected Council of Europe member states concerning family reunification, including access to the labour market and social benefits and assistance (section 4.1), and access to long-term/permanent residence (section 4.2). The policies are presented in a manner reflecting the chronological sequence of their impact in the course of migrants' lives, distinguishing between requirements for sponsors (section 4.1.1) and pre-entry and post-admission measures concerning family members in family reunification policies (section 4.1.2). This section concludes with an assessment of the human right implications of national integration policies and a selection of promising practices (section 4.3).

4.1. Requirements regarding family reunification

4.1.1. Requirements for sponsors

The ability to sponsor family members in **the United Kingdom (UK)** depends on having the necessary visa or being settled, which means having indefinite leave to remain (i.e. permanent residence) and being “habitually resident” in the UK. Migrants on time-limited visas may be able to sponsor but only for the same period of time as their own visa. According to the UK Immigration Rules, a sponsor for a “family of a settled person” visa is someone who is a British citizen, and who either is settled in the UK or has asylum or humanitarian protection in the UK.⁸¹ Unlike those sponsors of family reunion who have refugee status or humanitarian protection, the settled and citizen sponsors of a spouse or partner application must fulfil a minimum income requirement before the applicant may join them.

The sponsor must have an income of at least £18 600 per year before tax to be able to bring in a spouse or partner from outside Europe⁸² (or have substantial capital, demonstrated in required ways). In addition, only children under 18 may be sponsored. Higher thresholds are applied to those seeking to bring non-EU dependent children to the UK: £22 400 for applicants with one dependent child; and an additional £2 400 for each further child.⁸³ Applicants are also required to pay the immigration

health surcharge of £200 per year, except those who are granted an adult dependent relative visa. The applicant must also provide evidence that there will be adequate accommodation, without recourse to public funds, for the family, which the family own or occupy exclusively. There are also marriage validity and age requirements that both sponsor and applicant must be 18 or over at the time of the application.

According to the latest 2015 MIPEX assessment, the UK has “the least family-friendly immigration policies in the developed world” mainly due to the country’s income requirement, as well as other factors such as delays, language tests, fee levels and restrictions on access to benefits. In addition, a report of the Children’s Commissioner for England⁸⁴ shows that income threshold requirement for sponsors is too high and has a discriminatory impact. The assessment concludes that the threshold “cannot be met by almost half of adult British citizens, including many in full-time work, particularly the young, the retired, women, ethnic minorities and those living outside London and the South East.” The report also points out that this income level “would not be met by almost half the adult population and many families with children may never be able to meet them.”

In **Sweden** sponsors must fulfil maintenance and accommodation requirements.⁸⁵ The accommodation of the sponsor needs to be of a standard and appropriate size for the number of persons who are going to live there in line with provisions from the Migration Agency (*Migrationsverkets föreskrifter*), including health and safety standards. The sponsor demonstrates his/her housing situation in writing, for example by producing a lease or the equivalent document. There are a number of applicants, however, who are exempt from these requirements.⁸⁶

These exemptions apply when children apply for family reunification with a parent or when the other parent applies together with the child. Other exemptions include sponsors who are EEA nationals or Swiss nationals, refugees or resettled refugees, persons who are eligible for subsidiary protection and cases where the sponsor has a permanent residence permit and has resided in Sweden for at least four years. Exceptions can also be made if particular conditions are met. However, sponsors with the status “otherwise in need of protection” (a category of subsidiary protection under national legislation) are not exempt. The maintenance requirement does not apply when the sponsor is a refugee or a person eligible for subsidiary protection and the family member applies for a residence permit within the first three months after the person eligible for protection (i.e. the sponsor) has been granted a residence permit, provided that certain conditions are met. Nor does the maintenance requirement apply if the sponsor is a child, or if the relative has applied for a residence permit by the date on which the temporary act entered into force (i.e. 20 July 2016).⁸⁷

The maintenance requirement in the Swedish Aliens Act is that sponsors can support themselves.⁸⁸ There are particular provisions on how the financial resources of the sponsor should be assessed. For applications considered under the temporary act, the requirement is broadened so that the sponsor must be able to support also his/her family members who come to Sweden.⁸⁹ In practice this criterion is met by work-related income such as salary (and/or unemployment benefit, sickness benefit or earnings-related pension), but having sufficient financial assets is also a possible way to fulfil the requirement. The reserve amount (“*förbehållsbelopp*”) includes

accommodation costs and a basic amount ("*normalbelopp*") for costs of living. The latter includes, for example, expenses for food, clothes, hygiene and telephone.

However, it should be noted that – according to the temporary legislation in Sweden (Law 2016: 752 concerning temporary restrictions on the possibility of obtaining a residence permit in Sweden) – generally only individuals who have been granted refugee status can apply for family reunification. Individuals with subsidiary protection status are only eligible for family reunification if not granting it would constitute a violation of the right to family life in line with Article 8 of the Convention. According to the European Commission against Racism and Intolerance (ECRI) of the Council of Europe,⁹⁰ permanent residence is now only granted to beneficiaries of subsidiary protection (who include Syrians) after a period of three years (alternatively, if employed, they can access such status after one year). During this period they cannot enjoy family life in Sweden and are excluded from family reunification. In this light, ECRI recommended Sweden from refraining to renew or extend the temporary law restricting family reunification for beneficiaries of subsidiary protection due to the key role played by family reunion for successful integration.

In **Germany**, the sponsor must possess a settlement permit, an EU long-term residence permit, a residence permit or an EU Blue Card.⁹¹ Third-country nationals who are granted the right to asylum, who are recognised refugees and beneficiaries of subsidiary protection, enjoy the same possibilities. However, for beneficiaries of subsidiary protection, currently mostly from Syria, the right to family reunification was suspended until 30 June 2018 and is now restricted to 1 000 cases per month. As previously noted by the Commissioner for Human Rights, this restriction severely and negatively impacts the right to family life of beneficiaries of subsidiary protection.⁹²

The sponsor must be able to provide sufficient living space in accordance with Section 29 subsection 1 no. 2 of the Residence Act.⁹³ The sponsor is also required to have sufficient means of subsistence for themselves and their family members. A third-country national's subsistence is considered secure when he or she is able to earn a living for him/herself as well as for the family members (prospective maintenance requirement) without recourse to public funds, disregarding certain state benefits.⁹⁴ There is also a health insurance requirement. A foreigner who is enrolled in a statutory health insurance fund shall be deemed to have sufficient health insurance coverage.⁹⁵ Spouses and registered partners usually must be at least 18 years of age in accordance with Section 30 subsection 1 sentence 1 no. 1 of the Residence Act.⁹⁶

France applies a waiting period requirement for sponsors wishing to reunite with their family members. The sponsor is required to "lawfully stay in France for at least 18 months" with a residence permit valid for at least one year.⁹⁷ Article L.752-1 of the Code on Entry and Residence of Foreign Nationals and the Right of Asylum (CESEDA) stipulates that family reunification of refugees is not subject to this requirement. Sponsors in France must also fulfil accommodation and income requirements. In accordance with Article L.411-5, 2° of the CESEDA, the sponsor must prove that he/she has "at the time of entry of their family into France, accommodation considered normal for a comparable family living in the same geographical region"⁹⁸ or submit proof that he/she would have such accommodation at the date of his/her family's arrival.⁹⁹

Article L.752-1 of the CESEDA does not specify accommodation requirements for refugees. The sponsor is required to have, among other criteria, “sufficient and stable resources to provide for his/her family” (L.411-5, 1° of the CESEDA). The resources must represent an amount at least equal to the statutory minimum wage, increased according to the number of family members, with the aim of ensuring dignified reception conditions (Article R.411-4 of the CESEDA).¹⁰⁰ The resources from certain social benefits¹⁰¹ or family benefits are excluded from the resource calculation. Article L.752-1 of the CESEDA allows refugees, beneficiaries of subsidiary protection and stateless persons to apply for family reunification without proving availability of resources.¹⁰² Concerning age requirements, only minor children are eligible for family reunification.¹⁰³ This is unless the case concerns beneficiaries of international protection and stateless people, when family reunification can also concern unmarried children of up to 19 years old.

Sponsors in **Hungary** must fulfil accommodation, health insurance¹⁰⁴ and income requirements. As set out in Section 13(1)e in Act II of 2007 on the admission and right of residence of third-country nationals, the sponsor must have appropriate accommodation: be the owner of, or entitled to use, a property shown in the real estate register as a residential building or detached house, or any similar property suitable for habitation.¹⁰⁵ Furthermore, the accommodation shall have a minimum of 6 sqm of living space per person. The general requirement for third-country-nationals of having sufficient resources to cover subsistence and accommodation for the complete period of stay as well as the costs of return travel applies in cases of family reunification as well (Section 13(1)f in Act II of 2007).¹⁰⁶ A third-country national is considered to have sufficient resources to cover his/her subsistence for a stay exceeding 90 days within a 180-day period if his/her lawful income or assets or his/her family member’s lawful income or assets are sufficient to cover their living expenses, costs of accommodation, return travel and, if necessary, healthcare.¹⁰⁷

In **Italy**, applicants for family reunification need to meet income and accommodation requirement, as well as have health insurance when they are above the age of 65.¹⁰⁸ The accommodation condition concerns sanitary requirements, as certified by the competent municipal offices, with some exceptions, such as people with refugee or subsidiary protection status, and researchers.¹⁰⁹ The sponsor has to have a yearly gross income, current or presumed, from legal sources that is not lower than the yearly social allowance, increased by half for each family member to be reunited with, as provided for by the law.¹¹⁰ The amount of the social allowance is set on a yearly basis, and a circular adjusts this amount, including for the case of family reunification. Only unmarried children under 18 years of age (except for dependent children¹¹¹) can reunite with a sponsor in Italy.

Applicants for family reunification in **Denmark**, not themselves being Danish or Nordic citizens or persons with international protection, need to have held a permanent residence permit for at least the past three years at the date of their application. Sponsors in Denmark need to have an independent, reasonably sized¹¹² residence at their disposal. The applicant also needs to be able to support him/herself. This requirement means that if the sponsor has received certain forms of social benefits at any time in the past three years, family reunification will not be approved. In addition, the sponsor and the family member are required not to be in receipt of such benefits from the time of reunification until the family member obtains a permanent residence permit.

The forms of social benefit that prevent family reunification are those made under the terms of the Active Social Policy Act (*lov om aktiv socialpolitik*) or the Integration Act (*integrationsloven*), subject to certain exceptions.¹¹³ Spouses/partners need to be at least 24 years old in order to qualify for family reunification, and children may not be older than 15 years at the time of submission of the application, subject to exemptions in special situations.¹¹⁴ If the applicant for family reunification in Denmark is a refugee or beneficiary of subsidiary protection who still risks persecution and the family cannot live together in the applicant's country or another country, the Immigration Service will normally dispense with some of the general requirements for family reunification.¹¹⁵

ECRI has expressed concern about rules limiting family reunification of beneficiaries of temporary subsidiary protection who can only obtain family reunification after three years.¹¹⁶ It has reminded Danish authorities about the importance of early family reunification for successful integration and asked them to remove any elements in spousal reunification rules that are discriminatory or disproportionate to their aims or effects and to fully comply with the European Court of Human Rights *Biao* judgment (see section 2 above).

Sponsors in **Greece** must have two years of legal stay to become eligible for family reunion.¹¹⁷ To reunite with their family, non-EU sponsors must submit proof that they have appropriate accommodation meeting the general health and safety standards, as described in Article 53, Law 3386/2005 on the Entry, Residence and Social Integration of Third-Country Nationals on Greek Territory and Article 43 of Law 4025/2011 on the Reorganisation of Social Solidarity Organisations, Rehabilitation Centres, Restructuring of the National Health System and other provisions. They also need to fulfil income requirements linked to employment and non-use of social assistance. As of 2018, unmarried children under the age of 21 are eligible for family reunification in Greece in line with Article 31 of Law 4540/2018 on asylum procedures and intra-corporate transfer.

The Immigration Act no. 23/2007 of 4 July 2007 in **Portugal** does not require a minimum length of residence for family reunion. Article 98 of the Immigration Act prescribes that the foreigner with a valid residence permit is entitled to family reunion. It can be either a temporary or a permanent residence permit. On the other hand, in accordance with Article 101 of the same act, the exercise of the right to family reunion is conditional on the applicant having accommodation and means of subsistence (requirements which are not applicable to refugees). The means of subsistence required are set by Ordinance no. 1563/2007 of 11 December 2007 and calculated *per capita* by reference to the minimum wage: 100% of the minimum wage for the first adult family member, 50% for the second and further adult family members, and 30% for children up to the age of 18 and economically dependent adults. Furthermore, as to age requirements for children, adult children will only be covered by family reunion if they are single, economically dependent on the parents and studying in Portugal.

In **Turkey**, according to Article 35 of Law 4817 on the Work Permits of Foreigners, a residence permit of the sponsor for more than a year is enough for family reunification.¹¹⁸ The Law on Foreigners and International Protection (LFIP) 6458/2013 requires appropriate accommodation, meeting the general health and safety standards, and

medical insurance covering all family members. In addition, the sponsor should be earning at least the amount of the minimum wage in Turkey.¹¹⁹ Until the age of 18, the children can get a family reunification residence permit. The 2016 report of the fact-finding mission to Turkey by the Special Representative of the Secretary General on migration and refugees highlighted the need for Turkey to put more efforts into ensuring social inclusion policies with a strong non-discrimination component and more effective access to the labour market for refugees.¹²⁰ The report expressed concern about the existence of widespread “reports of abuse and exploitation of Syrian refugees working the textile industry, including allegations of discrimination and low wages”. Moreover, the Special Representative underlined that those in employment need evening courses to pursue formal language-learning and that “it appears that these are rarely available”.

As regards the **Russian Federation**, according to Article 25 of the Russian Federal Law No. 114-FZ of 15 August 1996 on Procedure for Exit from and Entry Into the Russian Federation, the right of a legal immigrant to bring his/her family members to Russia is limited to those individuals who have received a permit to stay in Russia because of their “unique skills required for highly qualified professional employment in Russia”.¹²¹ Spouses, minor children and legally incapacitated children of any age are eligible to immigrate to Russia to join their family members who are legally working in the Russian Federation.

4.1.2. Requirements for family members

4.1.2.1. Countries not imposing mandatory requirements

From the Council of Europe member states selected for this issue paper, **Turkey**, **Portugal** and **Greece** do not impose any mandatory requirements for family members. As regards access to the labour market, family members in **Portugal** and **Greece** have access in the same way as the sponsor and there are no additional requirements.¹²²

In **Turkey**, Law 4817 makes a very clear distinction between nationals and non-nationals regarding labour market access.¹²³ According to Law 4817 on the Work Permit for Foreigners, only non-nationals who have been working legally for a total of six years can be given working permission for an indefinite period of time without being restricted to a certain enterprise, profession or civil or geographical area. The new Law on Foreigners and International Protection (LFIP) also makes it possible for those who have legal refugee status to get a work permit (Article 89/4/b). According to Article 96.2 LFIP, immigrants can attend courses where the basics of political structure, language, legal system, culture and history of Turkey – as well as their rights and obligations – are explained. Such courses are to be promoted by the Directorate General of Migration Management.¹²⁴

While acknowledging the unprecedented entry of refugees into the country since 2015, ECRI has pointed out that it is particularly difficult to assess the practical effects of existing policies due to the lack of monitoring of their practical impacts on the integration of the beneficiaries.¹²⁵ ECRI recommended the provision of Turkish language courses and professional training to refugees so as to facilitate their inclusion in the labour market and reduce the risks of exploitation, irregular work and low wages.

4.1.2.2. Mandatory “pre-entry” requirements

Germany requires a pre-entry language test which serves as a precondition for admission to the country and for obtaining a residence permit for certain categories of migrants.¹²⁶ The required knowledge of the German language is at competence level A1 of the Common European Framework of Reference for Languages (CEFR).¹²⁷ It has to be demonstrated through the presentation of an approved language certificate (e.g. by a Goethe Institute) when the application for the visa for family reunification is filed at the German embassy or consulate or demonstrated during a personal interview at the embassy or consulate.¹²⁸

Some applicants can be exempted from this obligation.¹²⁹ Exemptions cover spouses with a certain academic degree or occupying specific and high-level jobs where an academic degree is a precondition.¹³⁰ Another exempted group concerns spouses in cases where their need for integration is limited due to the temporary nature of their stay.¹³¹ Applicants with mental and physical disability¹³² and from some specific nationalities can also be exempted. These include nationals from Australia, Canada, Japan, New-Zealand, South Korea and the United States. Citizens from Israel, Andorra, Honduras, Monaco, San Marino and from countries not subject to visa requirements are equally exempted.¹³³ By way of derogation of certain requirements, residence permits may be granted in order to prevent particular hardships.¹³⁴ Applicants for family reunification can attend language courses with an approved institution in the country of origin or transit. The Goethe Institute provides a list of potential examination centres around the world on its website. The expense for the migrants will depend on the country of origin, the course provider and the course format.

Family members wishing to join their spouses in **the UK** must demonstrate A1 level of speaking and listening according to the CEFR before entry as a condition for gaining an entry visa (unless they are applying for refugee family reunion).¹³⁵ The proof of reaching the required level must be supplied through tests organised by accredited providers listed by the UK Visa and Immigration Service.¹³⁶ However, these courses must be undertaken privately and, according to one of the respondents in the questionnaire, the cost of language tuition and language tests constitutes the greatest cost for migrants. There are exemptions for applicants aged under 18 and over 65, those with a physical or mental infirmity or with “exceptional compassionate circumstances” and nationals of selected “majority English speaking” countries.¹³⁷ In principle, exemptions from the test at the admission stage may be made in exceptional cases but this has rarely been the case. After family reunification has been granted, access to the labour market will depend on the terms of their visa, e.g. if admitted, some dependants of students can work with fewer restrictions than apply to the actual student. Family members of settled residents and refugees have access to the labour market.

France requires eligible family members applying for family reunification to undergo an assessment/test of their language and civic knowledge of the French republic’s values.¹³⁸ The assessment is carried out in the migrant’s country of origin by the French authorities (Office français pour l’Immigration et l’Intégration, OFII) and operated by the Network of *Alliance Française* or other appointed organisations. When the applicant demonstrates a sufficient level of knowledge, they are issued a visa

for family reunification purposes. In cases where the minimum level is not reached, applicants are required to attend language and civic classes in the country of origin. Such classes are usually available through the Network of *Alliance Française* and other appointed organisations and are free for family members.

After the attendance of these classes, another assessment is performed. Even in cases where the level of knowledge of the applicant is still not sufficient, this has no directly visible consequences for the issuance of a visa for family reunification and does not serve as an impediment for the applicant to succeed in the family reunification procedure.¹³⁹ Exemptions are possible where this requirement places an insurmountable burden on the applicant's physical condition or financial abilities, professional duties or security.¹⁴⁰ The latter exemptions concern third-country nationals living in states/regions where there are public order challenges, or where there are acts of war or disasters creating important difficulties or endangering the foreigner's security.¹⁴¹ In addition, third-country nationals who spent time in France for their secondary or higher studies and persons below 16 years old and over 65 years are exempted from this requirement.

4.1.2.3. *Mandatory requirements after admission*

Several Council of Europe member states covered by this issue paper provide for mandatory requirements after admission of family members, including language and civic courses and tests. These same countries also apply additional requirements after admission, such as conditions of access to the labour market for family members. **Italy** applies the so-called "integration pact" or "agreement" with foreigners who have obtained their first residence permit in the country, which is an agreement stipulating the commitment of third-country nationals to reach specific integration goals.¹⁴² Once migrants sign this contract (at the Immigration Service Office or the *Questura* Police Headquarters) they have two years to acquire a certain number of credits through a demonstrated spoken Italian language proficiency (A2 level of the CEFR), to show knowledge of and "declare agreement" with Italian civic values (e.g. fundamental principles of the Constitution of the Republic and civil life in Italy as enshrined in the Charter of Citizenship and Integration Values)¹⁴³ and, if applicable, through the fulfilment of their schooling obligations for their children. The state provides free language courses and a few free-of-charge sessions about life in Italy and civic education to foreigners who have entered into the integration pacts.¹⁴⁴

In cases where migrants do not meet their obligations under the integration pact, or fail to win a sufficient number of points, their residence permit can be revoked (annulment of the residence permit or refusal of its renewal) and they can be subject to a removal and expulsion order.¹⁴⁵ However, there are certain exemptions in line with Article *4bis* of the Italian *Testo Unico Immigrazione*. This requirement does not apply to individuals who have a long-term residence permit, a family permit or international protection, or are not suitable for expulsion for any other reason (e.g. they are parents of an Italian child).¹⁴⁶ If migrants fail to meet their obligations under the integration pact, they can rely on judicial remedy and challenge in court the refusal of the renewal of the residence permit.

ECRI has recommended Italy to carry out an evaluation of all integration projects set in motion in the country, so as to have accurate data on the actual results and integration rates achieved in various social life sectors.¹⁴⁷ It has also expressed concerns about the geographical inequalities in the integration of immigrants in the country, with certain Italian regions facing more difficulties in putting available European funding to good use in improving integration.¹⁴⁸ The lack of specific integration policies for refugees and people qualifying for international protection so as to ensure their proper reception and inclusion in the country has been also an issue of concern in Italy.¹⁴⁹ Asylum seekers and refugees are not subjected to the above-mentioned integration pact. However, they are covered by a separate integration system, managed mainly by the reception centres. Other exempted categories include vulnerable migrants, children under 16 years old, people with mental disabilities or diseases and victims of trafficking.

As part of the National Integration Plan for International Protection Holders introduced in October 2017, Italian language courses in the reception centres will become obligatory.¹⁵⁰ Initial tests aiming to assess the level of literacy and linguistic capacity will always be performed to define the most suitable teaching methods for the beneficiaries of international protection. There are no additional requirements to access the labour market apart from a work permit for some categories. Beneficiaries of international protection have immediate access to the labour market and, since 2015, asylum seekers can work after 60 days.¹⁵¹

The Special Representative of the Council of Europe's Secretary General on migration and refugees reported on his fact-finding mission to Italy that recognised refugees are entitled to reception for a short period following recognition of their refugee or subsidiary protection status.¹⁵² However the saturation of the reception system has had significant negative implications, leaving people to situations of homelessness, destitution and social exclusion. He also underlined that, in most cases, relevant funding does not reach out where it is needed the most. The report highlights that "there is very little general welfare support in Italy; so refugees are left to make their own way. Unable to speak the language and with no prospect of finding a job, they often find themselves in dire circumstances in informal settlements."

Third-country nationals in **France** are obliged to enter into a "contract" with the state, which is called contract of republican integration (*Le contrat d'intégration républicaine*, CIR). All foreigners and refugees must sign this contract.¹⁵³ It comprises language training aiming to support migrants to reach A1 level of the CEFR and civic training, as well as support to find employment opportunities. Exempted from this requirement are persons below 16 years old, persons who have studied in France, persons having the right to be issued a residence card (e.g. children who were born in France to foreign parents, and who are residing in France), seconded persons from an employer established outside France, persons holding a residence card with the heading "Competence and talent" and their family members.

Foreigners who have proved that they have at least an A1 level of French language proficiency according to the CEFR, as well as people over 65 years old, are exempted from the language requirement. If a foreigner fails to deliver on his/her commitments under the CIR, he/she has one month to provide his/her "observations" to

the prefecture. If the prefecture decides to terminate the CIR, this decision must be motivated and must explain the consequences for the multi-annual residence card (which is delivered if the integration measures are fulfilled). This decision can be appealed before an administrative judge. After family reunification has been granted, family members have access to the labour market the same way as the sponsor.¹⁵⁴ There are waiting times after being granted refugee status.

As regards the actual effects of the integration contract, ECRI recommended the French authorities to carry out a thorough and periodic assessment of its results and their effectiveness in reducing discrimination on grounds of origin.¹⁵⁵ ECRI also pointed out concerns about the drop in national budgets allocated to integration policies between 2013 and 2015.¹⁵⁶ On the other hand, the French integration contract system has been complemented by other schemes aimed at facilitating third-country nationals' access to employment (including a vocational skills assessment system) and regional integration programmes. ECRI underlines however that the language course is not sufficiently adapted to the actual daily situations of people looking for a job, and the qualifications or skills assessment takes too long and remains often superficial.¹⁵⁷ A recent report of February 2018 "Pour une Politique ambitieuse d'intégration des étrangers arrivent en France" issued by a member of the French parliament, Aurélien Taché,¹⁵⁸ contained an overall criticism of current French integration policy. It underlined the inadequate number of hours for linguistic and civic courses and the lack of sufficient consideration of the difficulties for immigrants and refugees to access housing.

In **Denmark** an integration programme must be offered to newly arrived refugees and newly arrived foreigners reunited with a family member who have been granted residence permits, and are 18 years of age or more and covered by the Integration Act.¹⁵⁹ If they cannot provide for themselves and thus receive welfare allowances (so-called "integration benefit") in line with the Act on Active Social Policy, participation in the programme is mandatory. The "integration benefit" was introduced in August 2015. It can be granted to newly arrived persons who have not resided in Denmark for at least seven out of the last eight years, including Danish nationals.¹⁶⁰ It is substantially lower than regular social welfare benefits. However, it should be noted that the spouse/partner of the applicant for family reunification needs to have a financial guarantee of DKK 100 000 to be able to repay the municipality if the applicant receives social benefits under the terms of the Act on Active Social Policy (*lov om aktiv socialpolitik*) or the Integration Act (*integrationsloven*).

The Danish integration programme consists of job training (business practice or wage subsidies) and language education, depending on the personal integration contract signed by the participant according to the Integration Act. The civic knowledge course is integrated in the language education. The courses offered as part of the migrant's personal integration contract are free of charge. Local authorities (municipalities) may fully or partly exempt foreigners from the integration programme if exceptional circumstances justify this decision, such as physical or mental disability, torture experiences or extreme trauma.

Local authorities are obliged to offer an introductory course to other newly arrived foreigners, i.e. labour immigrants and EU nationals. Denmark offers free language

courses under the migrant's personal integration contract. However, these language courses are no longer free if migrants are in Denmark to work, to study or as an EU citizen (law effective from 1 July 2018).

The introductory course is not mandatory. It contains the same elements as the integration programme but in a lighter version. The scope and contents of the introductory course are not fixed in an integration contract. Applicants who are approved for family reunification and granted a residence permit must normally pass the test in Danish at the A2 level, or higher, within nine months of being registered in the National Register of Persons. If they take the test before the nine-month deadline, but fail to pass, they are granted an additional three months to pass. If they fail to pass the test by the deadline, their residence permit can be revoked. Postponement of these deadlines is possible in certain cases.¹⁶¹

In special situations, the Immigration Service can dispense with this integration requirement, such as if the sponsor in Denmark is raising minor children who have an attachment of their own to Denmark, or if he/she has contact with minor children from a previous relationship; if the sponsor is seriously ill or if the applicant is blind or deaf, or has some other form of disability that prevents him/her from taking the exam.¹⁶² Migrants can also rely on administrative, judicial and Ombudsman review. Administrative review is the general rule. Judicial review and review carried out by the Parliamentary Ombudsman can be relied upon in exceptional circumstances. Once granted family reunification, family members have equal access to employment.¹⁶³ Independent evaluations are conducted by the Ministry of Immigration and Integration in Denmark. A preliminary evaluation was carried out to assess the first six months of the reformed integration programme, which attempted to improve its focus on employment. The evaluation showed that the programme had significantly increased the number of immigrants "declared ready to work by the municipalities", as well as increasing the employment of immigrants. More recent numbers, according to one of the survey respondents, show a continuing positive trend in the employment of immigrants.

The above-mentioned "integration benefit" can be topped up by an additional sum if the beneficiary passes an intermediate-level Danish language test. ECRI has pointed out that, while financial incentives for passing the language test may be well intended, "such a provision appears to have an indirect discriminatory effect, as passing the test should, generally be easier for returning Danes, than for newly arrived immigrants".¹⁶⁴ ECRI has expressed reiterated concerns about the appropriateness of the Danish integration benefit, particularly that these reduced amounts are too low and do not facilitate but rather impede integration in Denmark.¹⁶⁵ Lower levels of social welfare benefits particularly affect newly arrived refugees and beneficiaries of subsidiary protection who present a higher level of vulnerability and dependency.¹⁶⁶ ECRI has also emphasised the indirect discrimination and restrictiveness stemming from current Danish rules on family reunification, in particular the rules affecting non-EU spouses of Danish nationals and persons who acquired Danish citizenship after birth, not at birth.¹⁶⁷

Since 2015 foreign nationals in the **Russian Federation** have been obliged to pass an exam on language skills (oral interview and written testing), knowledge of Russian

history (written testing) and basics of Russian legislation (written testing) when applying for a licence, a work permit or a temporary/permanent residence permit.¹⁶⁸ Foreign nationals from a visa-free country who wish to legally reside and work for individuals and legal entities in Russia can apply for a licence (or “patent” as it is defined in Russian), which is a monthly paid permit for stay and work. The fee for a licence depends on the region; Moscow is one of the most expensive – 4500 RUB per month (about 62 EUR) in 2018. There is no specific level of knowledge of Russian that must be reached. The minimum requirements are that:

- ▶ the applicant should demonstrate the ability to read short texts of advertising and information, define the subject of the text, understand the basic and additional information contained in it in social/everyday, socio-cultural and formal-business spheres of communication;
- ▶ the applicant should be able to fill in questionnaires, forms, notices (to receive a parcel, for instance), write a statement (for example, on hiring, on admission of a child to school); and
- ▶ during the oral interview the applicant has to be able to follow the main content and participate in communication in social/everyday, official-business, professional and socio-cultural spheres.

The exam has to be passed within a period of 30 days after arrival in the Russian territory or at a branch of an authorised university outside the country.¹⁶⁹ The law exempts from this obligation certain categories of foreign nationals applying for a work permit: 1) highly qualified specialists; 2) foreign nationals currently studying on an internal basis at a professional educational institution; 3) foreign nationals studying on an internal basis at an institution of higher education and engaged in work activities. The law also exempts disabled persons, applicants under 18 years old, men and women of retirement age (men over 65 years old, women over 60). Also, this requirement does not apply to citizens of Euro Asian Economic Union (EAEU) member states,¹⁷⁰ who benefit from free movement of workers on the basis of Articles 96-98 of the Treaty on the EAEU.

According to the federal law “About state policy of the Russian Federation concerning compatriots abroad”,¹⁷¹ compatriots and their descendants are also exempted from this requirement. These are persons living outside the territory of the Russian Federation and belonging, as a rule, to the peoples which have lived historically in the territory of the Russian Federation and also persons who have made a free choice to benefit from a spiritual, cultural and legal bond with the Russian Federation, whose relatives (ancestors) on the direct ascending line lived in the territory of the Russian Federation, including: persons living in the states which were part of the USSR, who obtained citizenship of these states or became stateless persons; and natives (emigrants) of the Russian state, the Russian republic, RSFSR, the USSR or the Russian Federation who became citizens of a foreign state or stateless persons.

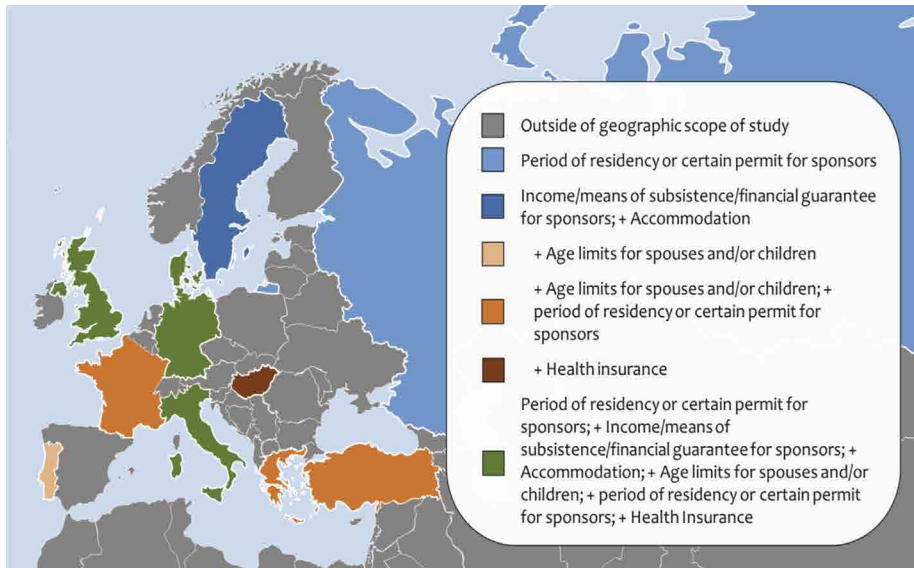
If they fail the mandatory integration requirement, migrants can in principle rely on administrative and judicial remedies. There are online preparatory learning materials (tests and manuals), which are free of charge. However, other paid courses, as well as the costs of the language and civic exams should be covered by the migrant. In Russia the Federal Agency for Ethnic Affairs and Ministry of Education publish annual

evaluations. According to the most recent data, the proportion of foreign citizens who passed the exams on Russian language, history and legislation was 59.9%. It should be kept in mind, however, that migrants coming to the Russian Federation are mainly from the Commonwealth of Independent States countries where the population still has some knowledge of the Russian language due to their common past and their education in the USSR. This is not the case with new generations and this integration requirement could be a challenge for immigrants aged 18-25 from these countries. In addition, the 2017 report by the Russian Presidential Academy of National Economy and Public Administration¹⁷² concluded that the law does not achieve its goal: it did not stop migrants who do not speak Russian from coming to Russia, nor did it motivate them to improve their knowledge of Russian.

Russia is also among the Council of Europe states which apply additional conditions. In accordance with Russian federal law, in order to access the labour market applicants (with some exceptions, such as highly skilled workers) also need to undergo a medical examination, which must be carried out at one of a few approved clinics in Russia. A medical examination confirms the absence of contagious diseases caused by the human immunodeficiency virus (HIV) or addiction to prohibited narcotic substances specified by the Ministry of Health of the Russian Federation. ECRI reports on Russia have consistently highlighted as a particular challenge the obstacles faced by non-nationals in the residency registration procedure.¹⁷³ ECRI has repeatedly recommended Russian authorities to facilitate registration so that they are not denied unjustifiably their rights.¹⁷⁴

Map 1 shows which of the Council of Europe member states studied in this issue paper have pre-entry and post-entry integration requirements.

Map 1: Pre-entry and post-entry integration requirements



Source: Authors' own elaboration.

4.1.2.4. Voluntary integration programmes with mandatory features

The integration course in **Germany**, which consists of language training and an orientation course, can be made compulsory for specific groups of migrants, depending on their country of origin and the level of language fluency.¹⁷⁵ From 1 January 2017 onwards, according to the Integration Act of 6 August 2016 (*Integrationsgesetz*), the following categories can follow a voluntary integration course: asylum seekers with a good prospect of obtaining asylum status (e.g. from Eritrea, Iraq, Iran, Syria or Somalia), persons with granted toleration status, persons whose deportation has been temporarily suspended and foreigners with a residence permit. However, asylum seekers from the above-mentioned groups can also be obliged to follow an integration course by the benefit providers in accordance with the Asylum Seekers' Benefits Act (*Asylbewerberleistungsgesetz*). If they receive such benefits, refusing to participate in or failure to attend an integration course can be penalised by social benefit cuts. Benefits can also be cut if refugees violate the obligation to settle in the assigned location.¹⁷⁶ Family members may also be obliged to attend an integration course or the orientation course. Not attending the integration course may have specific consequences for extension of the residence title of the immigrant.

The level of language skills to be achieved depends on the field, but B1 is often considered the ideal lowest level that all immigrants should be capable of. This partly requires alphabetisation (general and in the Latin alphabet) for some groups. For a number of professions and for access to higher education, higher levels than B1 are required. Integration courses also contain a certain number of hours devoted to an introduction to German history and the political system. Course books and online tutorials are available. The cost of courses is partly covered by the state. Usually, foreigners have to pay 50% of the rate that the government pays to the course providers of integration courses (currently 1.95 EUR of 3.90 EUR per participant/hour).

Foreigners receiving social benefits are exempted from payment of the fee upon request. Others who are unable to afford the fee ("financial hardship") can be exempted upon request. Ethnic German "resettlers", and their spouses and descendants, have a right to participate in an integration course free of charge. The integration course itself is supposed to prepare third-country nationals to pass the language and orientation tests. If migrants fail the test, it can be repeated. There is a possibility for administrative remedy.

There are no mandatory requirements for third-country nationals in **Sweden**. There is an "introduction plan or programme", which contains free language training, civic education courses and pre-employment training activities (such as work placements and internships). The introduction programme is co-ordinated by the Public Employment Service (PES), which also prepares a "personal integration plan" together with the person concerned and which takes into account the education background and past work experience.

Despite the fact that the integration programme is not mandatory, it becomes so for beneficiaries of international protection and their family members who would like to benefit from economic support (introduction benefits) and have committed to an introduction plan. If they do not fulfil the requirements stipulated in the introductory plan, they could face a reduction of these introduction benefits.¹⁷⁷

Such reductions might not apply to some people due to their age or capacity to take up the programme. Since January 2018, there have been new rules concerning the introduction programme administered by the Employment Agency,¹⁷⁸ making participation in the introduction programme mandatory replacing the right to participate in the programme by an assignment to the programme (for persons granted international protection and their families).¹⁷⁹ In the new regulation the programme has been harmonised with rules for other unemployed jobseekers. This means stronger obligations for the participants to follow the introduction plan and to participate in designated training. Non-compliance leads to (short- or long-term) suspension from the programme and from the (economic) introduction benefit that follows from participation.¹⁸⁰

The integration policy in Sweden aims at ensuring equal rights, obligations and opportunities for all regardless of ethnic or cultural background. Facilitating migrants' access to the labour market, in particular for recognised refugees and beneficiaries of subsidiary protection is a key objective.¹⁸¹ This is achieved mainly through the existing general measures for the whole population, which are supplemented by targeted support (incentives) for the introduction of newly arrived immigrants in their first years in Sweden, aiming to speed up integration to working and social life.¹⁸² For instance, the PES offer short supplementary courses as part of the introduction programme so that new arrivals with tertiary education can be swiftly matched with available jobs in the labour market. Employers can also benefit from financial support when recruiting a person who is new in Sweden.¹⁸³

According to ECRI, however, Swedish authorities reported that despite these efforts the rate of labour market participation remains rather low. In 2016, only 27% of those having followed the introduction programme found a job within the following three months. ECRI clarified that this challenge is mainly related to the fact that the programme only lasts for a two-year period, which is unrealistically short. It is also mainly designed for participants with a certain level of education and skills, "whereas the actual education and skill levels often turned out to be considerably lower than expected", and was not taking into account the specific needs of women.¹⁸⁴ Nevertheless, former participants still have possibilities for further education and labour-market programmes as part of the general educational and labour-market services.

Hungary does not impose any mandatory or voluntary integration requirement on immigrants and beneficiaries of international protection. Hungary used to have an "integration contract" system for newly recognised refugees and subsidiary status holders until 2016, when it was abolished by the current government as part of its new policy.¹⁸⁵ Currently, access to the integration programme is no longer possible. Only the on-going contracts were maintained, with the last integration contracts expiring in June 2018.

Beneficiaries of international protection had the opportunity to sign an integration contract with the asylum authority within four months of being granted international protection status.¹⁸⁶ The integration contracts' main function was to provide the framework for the refugee's integration into Hungarian society and had a duration of maximum two years from the date of qualification.¹⁸⁷ The plan was based on the

activities that beneficiaries of international protection wanted to spend the monthly support money on, such as Hungarian language classes, education, renting a flat.¹⁸⁸

Once committed to the programme, the support provided on the basis of the integration contract (but not social benefits) could be suspended or terminated if the beneficiaries of international protection did not fulfil the obligations defined in the integration contracts for at least 30 days for reasons attributable to them, if they were charged with a felony punishable with imprisonment for at least three years, or if they had misled the authorities concerning their financial situation. Once the family reunification was granted, only beneficiaries of international protection (refugees, supplementary status and temporary protected) could be employed under the same conditions as nationals (without work permit).¹⁸⁹

The lack of mandatory integration requirements in Hungary should be interpreted carefully as the country does not currently provide any integration support to beneficiaries of international protection. Projects funded by the EU's Asylum, Migration and Integration Funds were withdrawn by the Hungarian Government, and this action has negatively impacted integration services provided by non-governmental organisations (NGOs). These services were terminated as of the end of June 2018. This has eliminated the single integration assistance provided to third-country nationals in the country.

4.2. Requirements for access to long-term or permanent residence

All member states covered by this issue paper that are bound by the EU Long-term Residence Directive require applicants for permanent residency to provide evidence of sufficient stable and regular resources to maintain themselves and their family members, as well as sickness insurance, in line with Article 5(1) of the directive.¹⁹⁰ In order to assess these sufficient stable and regular resources, member states have set different income requirements by reference to the level of social assistance, minimum living standard or minimum wage/pension.¹⁹¹ **Hungary, Italy, Germany, France, Portugal and Sweden** also take into account the adequacy of resources in relation to accommodation. Satisfying the income requirement is not always easy for applicants, especially for workers occupying low-skilled positions, as well as for other vulnerable groups.¹⁹²

Member states may impose integration conditions as an additional requirement for having access to long-term residence or settlement in the country. There are no such mandatory integration requirements regarding access to long-term residence in **Hungary** and **Sweden**. **Turkey** does not impose such conditions.

In **Portugal** the Immigration Act requires knowledge of basic Portuguese (at A2 level)¹⁹³ to acquire a permanent residence permit. The knowledge of basic Portuguese may be attested by a certificate issued by a public or a private school based in Portugal, or by the Portuguese Institute for Employment and Professional Training, as well as by means of a language test in a centre for the assessment of Portuguese as a foreign language (and recognised as such by the Ministry of Education and Science).

Applicants who prove to have studied in an official school in a Portuguese-speaking country, and who can prove their knowledge of basic Portuguese by presenting a certificate from their school in the country of origin, are exempted from this requirement. Third-country nationals can prepare for the language tests for free through

the programme “Portuguese for All”,¹⁹⁴ consisting of 150 hours language courses for foreigners at secondary schools and professional training centres. The programme is co-funded by the European Social Fund. The applicant’s failure to attest his/her knowledge of basic Portuguese will have as a consequence that he/she will not be granted a permanent residence permit.

The only mandatory integration requirement in **Greece** concerns access to long-term residence.¹⁹⁵ Applicants need to prove that they have sufficient knowledge of Greek language, history and culture. The language requirement is level B1.¹⁹⁶ Applicants who have a lower level are considered to have sufficient knowledge of the Greek language, history and culture, but only if they receive certification of adequate knowledge of elements of Greek history and culture after passing an examination conducted under the responsibility of the General Secretariat for Lifelong Learning in collaboration with the Centre for Greek Language.¹⁹⁷ It can also be evidenced through a degree of compulsory education from a Greek school, a graduation degree from a high school abroad that belongs to the Greek educational system or a recognised graduation degree from a Greek philology department from a university abroad. There are no exemptions for vulnerable groups. There are training courses available, but they are not freely accessible. The main legal implication of not passing this requirement is that applicants cannot gain access to this long-term residence status; lack of this status leads to insecurity of residence.

In the **Russian Federation** passing the language and civic tests requirement is also a precondition of access to permanent residence. **France** applies the same approach: completion of the integration contract forms part of the examination of a long-term residence application. In a similar fashion, in **Italy** the residence permit for new migrants in general is linked to the integration contract and to a commitment to achieve A2 level of knowledge in Italian language and also, as pointed out above, to follow an information session about “life in Italy”. The non-fulfilment of the agreement may lead to non-renewal of the permit and thus limit access to long-term status. In order to obtain the long-term resident permit in Italy, under Law no. 94/2009 applicants need to demonstrate their language proficiency in different ways, for instance by being enrolled in an Italian university, having obtained an Italian diploma or by passing a test.¹⁹⁸

Legal residence in **Denmark** for 8 years or more, passing the language test, signing a declaration of integration and active citizenship in Danish society,¹⁹⁹ having been employed for at least 3 years and 6 months, having current employment and not having received certain forms of social benefit are among the basic requirements for a permanent residence permit in Denmark.²⁰⁰ Applicants need to pass a Danish language test and demonstrate ability at B1 level. In addition, in order to obtain a permanent residence permit, applicants must fulfil at least two out of four supplementary requirements (one of them is to pass an active citizenship exam or have displayed active citizenship). Migrants and refugees may qualify for permanent residence after having resided legally in Denmark for four years if they meet all four supplementary requirements.²⁰¹

In order to access long-term residence in **Germany**, applicants need to prove adequate German-language skills (B1 level) and basic knowledge of the legal and social systems and living conditions in Germany. These integration requirements can be achieved by attending an integration course and passing the exam.²⁰² But the

most important formal requirement is the duration of continuous stay in Germany, which is a precondition of permanent or long-term residence.

When applying for settlement in **the UK**, all applicants must have B1 level of the CEFR in English unless they come from a designated (mainly) English speaking country, have at least a non-vocational bachelor's degree taught in English or are exempt by reason of age or health condition. They must also pass the Knowledge of Life in the UK test unless they are exempt by reason of age or health condition. The Knowledge of Life in the UK test is a multiple-choice test covering a prescribed syllabus set out in a handbook, which covers "values", the political system, historical knowledge and British society. The test costs £50, the handbook costs £12.99 and the practice questions £7.99. However, as stressed above, the greatest cost for the migrants is likely to be the cost of language tuition and language tests, which must be undertaken privately. There are no state funded courses, except for some vulnerable groups. Those who are exempt because of their health or age (or vulnerability, such as refugees) may be required to take them for naturalisation, although there is discretion. Applicants who cannot meet these requirements will be able to apply for further temporary leave to give them time to improve their language and knowledge skills before reapplying.²⁰³ However, this effectively means less security of residence. Moreover, as ECRI has reported,²⁰⁴ there is no general national policy in England and Northern Ireland, unlike Scotland and Wales,²⁰⁵ on the integration of non-nationals and refugees.

4.3. Human rights implications and promising practices

Various requirements and conditions embedded in national policies aimed at integrating immigrants pose a number of challenges in light of Council of Europe and EU human rights standards. This section highlights the main issues and effects of integration policies on human rights and offers a selection of national practices that show promising features in facilitating and fostering socio-economic inclusion and safeguarding human rights.

Integration requirements of an obligatory nature pose higher risks to human rights standards (see Table 1 below). Some Council of Europe members impose such requirements with regard to the pre-entry phase of family reunification policies (such as the UK, France and Germany). Others do so in the post-admission phases: Italy, France, Denmark and Russia. Furthermore, Greece, Russia, France, Denmark, Germany and the UK apply mandatory integration requirements as a condition of access to long-term residence.

It is evident from the responses to our e-questionnaire that insecurity of residence and legal uncertainty for applicants and their families can be considered to be among the most significant implications of non-compliance with obligatory integration requirements. Both problems were mentioned in 46.6% of the answers to Question 16 of our e-questionnaire, which asked respondents "What are the legal implications of non-compliance with the mandatory integration measures in your country (e.g. not passing a civic knowledge or language test)?" As the European Committee of Social Rights has underlined, mandatory integration tests constitute a restriction on human rights.

When integration tests or programmes are obligatory in nature, it means that failure to show knowledge of the language, history, values and legislation of the receiving country as part of these mandatory integration requirements may result in denying family reunification or permanent residence. This was confirmed by 51.85% of e-questionnaire respondents. Half of the national experts consulted in this issue paper were of the opinion that the right to respect for private and family life (Article 8 of the Convention) was at stake with the mandatory integration policies in their countries. Insecurity of residence for immigrants and refugees stands at odds with the human rights standards developed by the European Court of Human Rights when interpreting interferences with Article 8 of the Convention. Compliance with human rights standards developed by the European Court of Human Rights jurisprudence requires Council of Europe countries to prioritise length of residence as the main criterion for granting settlement and permanent residence.

In order for language integration tests to be in line with Article 8 of the Convention, they should be attainable (maximum level A2). This has been confirmed for instance by PACE Resolution 1973 (2014). Integration programmes have to account for the specific needs and abilities of those who do not have the same levels of literacy and education, or those who may be in a position of vulnerability, such as the elderly and beneficiaries of international protection. Also, states should support preparatory courses free of charge. They should provide measures to ensure that failure rates in the tests do not have any (direct or indirect) discriminatory effect, do not lead to exclusion or a state of limbo for those who do not succeed and do not lead to denial of the right to family reunification, permanent residence rights or citizenship. Pre-entry integration requirements in the UK, France and Germany are formally in line with the PACE standards set by PACE of requiring maximum of A2 CEFR. However, only France supports free courses for family members, which give the opportunity for migrants to pass these tests and gives preference to graduated scales of attainment in order to avoid discriminatory effects of these measures.

PROMISING PRACTICE IN NON-MANDATORY INTEGRATION (Sweden)

Swedish integration policy does not subject the right to family reunification to passing any mandatory integration measures. It aims at creating equal rights, obligations and opportunities for all, by empowering migrants through different incentives to make the right choices, taking into account the needs and abilities of migrants, and providing adequate state support.

Pre-entry (mandatory) integration requirements cost a lot of stress and insecurity for applicants, as well as delays in family reunification.²⁰⁶ Since a long period of time passes before family members arrive in the country of destination, they risk losing this knowledge and start building their knowledge of the receiving country language from the moment of arrival. It often causes tensions between spouses because sponsors do not always understand why spouses are taking so long to learn

the language and this is exacerbated by the limited support between the partners because of distance.²⁰⁷ Failure to fulfil the language requirement in the case of the UK and Germany can lead to delaying and possibly denying family reunification, and in the case of France – which also requires civic knowledge – postponement of access to this right. Therefore, such measures are considered to interfere with the human right to respect for family life.

PROMISING PRACTICE IN GRADUATED SCALES OF ATTAINMENT (France)

Among the countries applying voluntary pre-entry integration requirements, France is the only one giving preference to graduated scales of attainment, reflecting recognition of effort. Even in cases where the applicant's level of French knowledge is not sufficient, this does not serve as an impediment to family reunification. The more recent focus given by French integration policy to other schemes aimed at facilitating third-country nationals' access to employment and regional integration programmes has other interesting potential.

Council of Europe member states also impose various post-admission integration requirements before granting access to family reunification and long-term residence. Most of the national integration policy measures investigated do not give preference to graduated scales of attainment, which would reflect recognition of effort rather than simply achievement. There are also few countries requiring, as part of the family reunification procedure, language proficiency higher than A2 of CEFR (such as Germany). Integration exams of language skills ask in some cases disproportionately high language knowledge in a reduced amount of time. When it comes to access to long-term residence, again several countries such as Denmark, Germany, the UK and Greece require level B1 of CEFR.

Articles 8 and 14 of the Convention rights are most often at stake because of inappropriate implementation of integration policies. This is true especially when countries demand integration from applicants, but do not support it by free or easily accessible language/civic classes and free preparatory materials.²⁰⁸ In some instances the cost of the language/civic exams is covered by third-country nationals themselves, as is the case in Greece, Russia and the UK. Too high costs or disproportionate fees may in this context constitute barriers for certain applicants and render family and private life impossible. Some countries where financial support exists offer reduced or inadequate financial incentives for meeting integration requirements and lower social benefits.

Failure to pass integration tests – pre- and post-admission – cannot serve as a legitimate justification for states to exclude immigrants and refugees from the enjoyment of their rights under Article 8 of the Convention and their basic socio-economic rights enshrined in the European Social Charter. For those Council of Europe member states who are also members of the EU and bound by EU immigration and asylum law, the toolbox developed by the CJEU requires them to adopt integration policies

which facilitate (not disrupt) family life, and which improve (not decrease) security of residence. Obligatory integration policies which directly or indirectly restrict immigration and permanent settlement undermine the effectiveness of the EU family reunification and long-term resident directives and are therefore incompatible with EU standards.

Table 1: Council of Europe member states’ integration policies

<i>Country</i>	<i>Family reunification</i>	<i>Long-term residence</i>
<i>Denmark</i>	++	++
<i>France</i>	++	++
<i>Germany</i>	++	++
<i>Greece</i>	+++	+
<i>Hungary</i>	+++	+++
<i>Italy</i>	+	++
<i>Portugal</i>	+++	+++
<i>Sweden</i>	+++	+++
<i>Turkey</i>	+++	+++
<i>Russia</i>	+	+
<i>UK</i>	+	+

- + Mandatory or obligatory integration requirements with no or limited support for migrants
- ++ Mandatory integration requirements, but some available state support (e.g. accessible courses) which may enable migrants to succeed
- +++ No mandatory or voluntary integration requirements or only language knowledge required in reasonable time after arrival

Human rights challenges become visible when integration policies are not tailored to the needs of applicants or demand too high expectations of them. It is not always clear the extent to which mandatory integration tests and exams exempt or dispense certain family members and other vulnerable applicants from the obligation to pass the exam for reasons related to the age, illiteracy, level of education, economic situation or health. All the countries examined provide different exemptions from these integration requirements on the basis of vulnerability or other difficulties (financial, age or refugee status), but it is not always clear how this is applied in practice. There is generally a difficult relationship between integration policies and securing a personalised or case-by-case assessment by applicant. The specific circumstances of applicants are not always taken into consideration, and nor are the potential impacts of attending integration programmes on their security of residence and work. This runs counter to the EU standards developed by the CJEU jurisprudence.

The legal uncertainty inherent in mandatory integration policies applying civic integration requirements poses further human rights challenges. The civic dimension of integration (knowledge of the way of life and values of the receiving society) taking the form of obligatory tests poses here the higher risks. The question remains: integration into “what”? Does the law provide a definition of the “way of life” or of the “receiving society”? There is an uneasy relationship between the notion of civic

integration as framed in national policies and the “in accordance with the law” test developed by the European Court of Human Rights in cases of states’ interferences with human rights. Integration requirements may also run counter to the prohibition of indirect discrimination stipulated in Article 14 of the Convention, although only 44% of the e-questionnaire participants said that such measures were problematic in light of the prohibition of discrimination.

Integration policies are in this respect assessed in relation to their intended or unintended negative effects on certain groups of applicants. Some integration policies assessed in this issue paper provide for exemptions on the basis of nationality (UK, Denmark and Germany). Nationals from wealthy countries such as Australia, Canada, Japan, New-Zealand, South Korea and the United States are exempted from passing obligatory integration policies in countries such as Germany. The legitimacy and actual compatibility of these policies with human rights would require an exhaustive and periodic assessment of the prejudicial intended or unintended discriminatory effects which they may have in relation to specific groups belonging to certain national or ethnic origins, and religions.

An individualised and tailored (follow-up) approach proves to be particularly crucial for ensuring effective and durable labour-market insertion by immigrants and refugees. Voluntary introduction and labour-insertion measures focused on skills provision and practical information on rights and entitlements at work can play a key role in successful socio-economic inclusion. The Council of Europe’s Committee of Ministers underlined in Recommendation Rec(2008)10 the importance of ensuring the fullest possible integration of immigrants in the labour market. It recommended member countries to review the effectiveness of all relevant policy and practice in their domestic arenas. If well designed, and when they are not too short-term oriented, voluntary integration policies that offer language courses, skills/qualifications recognition and personalised professional training may facilitate the immigrants’ inclusion in the labour market and reduce the risks of exploitation, irregular work, low wages and unfair working conditions.

PROMISING PRACTICES IN LANGUAGE TRAINING

Integration policies in Portugal, Sweden, Denmark and Germany show some interesting features in the provision of support for language training. Germany provides a large number of language classes where the state partly covers the cost of courses once immigrants are in the country. There are also specialised integration courses for illiterate people, women/parents, young people and young adults.

Denmark offers free language courses in line with migrants’ personal integration contracts. Denmark and Sweden offer training to facilitate faster labour-market integration, which is considered an important part of the integration process and an enabler of the right to work.

Council of Europe member states impose many additional requirements for sponsors before family reunification can be authorised. These include waiting periods, age limits and income thresholds, which have implications for human rights and may jeopardise integration. A notable example is the family reunification policy in the UK, where the income threshold might be considered too high, which might raise questions under Articles 8 and 14 of the Convention and in view of PACE Recommendation 1686 that emphasises that making family reunification subject to financial conditions poses a threat to the human right of respect for family life. The income requirement in Denmark, to the extent that it excludes the use of certain forms of social benefits, raises questions in light of Article 19.6 of the European Social Charter and the European Committee of Social Rights conclusions stating that migrant workers who have a sufficient income to provide for their family members should not be automatically denied the right to family reunification on the basis of the origin of such income, insofar as they are legally entitled to benefits they may receive.

Waiting periods can also have negative human rights implications and disrupt family life. According to the European Committee of Social Rights, a waiting period of more than one year is not compliant with the European Social Charter and also runs counter to the recommendations of the Commissioner for Human Rights to ensure that family reunification processes are not unduly delayed, especially in the case of refugees. Some Council of Europe member states impose waiting periods longer than one year related to a requirement of minimum legal stay. In addition, according to the European Committee of Social Rights, family reunification must be possible for persons between 18 and 21 years old and this study shows that many Council of Europe member states put a limit at the age of 18 or below. Limitations or restrictions on the right to family reunification for individuals with subsidiary protection status, such as in Denmark, Sweden and Germany, potentially impact the right to family life in light of Article 8 of the Convention, as also pointed out by the Council of Europe Commissioner for Human Rights. Russia presents an example of a Council of Europe member state restricting family reunification on the basis of skill levels.

Human rights challenges become visible during the phases of practical implementation at national, regional and local levels. The local dimensions of integration prove to be determinant for successful integration. Cities have a first-hand understanding of the practical issues pertaining to integration policies. When asked whether mandatory integration measures “promote integration”, the cities considered them to have negative effects and added that they could even delay the social and economic integration of third-country nationals.²⁰⁹ In addition, Section 4 illustrates the existence of geographical inequalities in the integration of immigrants across regional and local authorities in some of the selected Council of Europe countries. For instance, certain regions and cities in Italy are experiencing more difficulties in having access to existing integration funding schemes. Other noticeable examples are Hungary and Turkey; the Hungarian cases shows how the lack of state support for integration poses serious challenges for asylum seekers and beneficiaries of international protection seeking to have effective access to human and socio-economic rights.

There may be also unintended consequences such as social segregation or exclusion stemming from inadequate implementation of integration requirements,²¹⁰ creating higher levels of “dependency” among applicants and additional bureaucratic hurdles in an already complex and expensive immigration and asylum system. Adequate

long-term financial support by the state is central. This is particularly so in respect of reception conditions for asylum seekers and beneficiaries of international protection. There is often a lack of sufficient political priority and funding focused on long-term outputs, which – together with deficient structural conditions in national asylum systems – challenges the effectiveness of integration policies at regional and local levels.

Section 4 also shows that not enough efforts have been made to ensure periodic and independent evaluations of the extent to which national integration policies have been successful in meeting their goals and facilitated the inclusion of beneficiaries. Notable exceptions in this regard are Sweden and Portugal, which set a good example in terms of policy evaluations.²¹¹ This is despite reiterated calls by Council of Europe bodies, such as PACE – especially its Recommendation to the Committee of Ministers 1686 (2004) – and ECRI, to increase monitoring of compliance with international human rights instruments regarding family reunification.

Chapter 5

Conclusions

This issue paper has examined the human rights aspects of integration policies for immigrants and refugees in a selection of Council of Europe member states. The analysis has included identification of the most relevant Council of Europe and EU human rights and rule-of-law standards when assessing national integration policies. The issue paper provides a comparative assessment of civic integration and language requirements (mandatory and/or voluntary), and other related policies that affect third-country nationals' family reunification and long-term residence status.

Mandatory language and civic integration policies present the highest challenges in the light of human rights standards. This is particularly visible in the phases of practical implementation, where certain groups of applicants may be more adversely affected by sanctions if they fail to pass integration tests, exams or contracts. This is reinforced by the fact that integration measures are often not well designed for the specific needs of certain applicants and vulnerable groups, which increases the risks of discrimination. Additional conditions such as income thresholds, long waiting periods, housing requirements and reduced financial benefits further restrict family reunion and settlement by making procedures more burdensome and ineffective. Questions of proportionality and the extent to which these conditions affect human rights (such as the right to respect for private and family life) should be central when evaluating their legitimacy.

Integration policies should facilitate family unity. They should improve third-country nationals' security of residence. Integration policies should not pursue restrictive migration-control goals aimed at limiting family reunification and preventing settlement in the country. The longer the person resides in a specific country, the stronger the ties are with that country, and the higher the responsibility of the state is to ensure security of residence. A voluntary and incentive-based approach should be preferred to integration policies that are obligatory or oriented to migration control.

Although challenging situations – like the European humanitarian refugee crisis since 2015 – have occurred and have increased the deficits in reception conditions in the countries most affected, human rights standards must continue to be fully upheld by these states. Current policies should move beyond the assumption that most of these newly arrived asylum seekers will eventually return to their countries of origin, and instead develop robust, long-term inclusionary policies. Equality and non-discrimination constitute preconditions for the full realisation of human dignity,

which lies at the heart of the human rights system. This issue paper illustrates how compliance with human rights and non-discrimination form one of the best recipes for ensuring an effective and dignified integration policy.

This transnational comparative examination has revealed risks of discriminatory treatment of certain groups based on ethnic and/or national origin, which may be hidden behind nationality-based discrimination. It is of key importance when determining the compatibility of Council of Europe member states integration policies not to assume their legitimacy. A detailed and evidence-based examination of their direct or indirect effects – based on independent evidence and the findings of Council of Europe monitoring bodies – over certain groups and communities should be instead the starting point in determining their human rights compatibility. All Council of Europe member states should show their firm commitment to the well-established principle of non-discrimination by ratifying Protocol No. 12 of the Convention.

Voluntary integration policies focusing on long-term outputs and labour-market insertion present rather promising features for socio-economic inclusion and reducing the risks of exploitation, irregular work and low wages by immigrants and beneficiaries of international protection. More attention should be paid to securing adequate entitlements to health care services and guaranteeing access to housing for a dignified quality of life by immigrants and refugees. Labour-market inclusion policies should be realistic and take account of the specific characteristics of the applicants. They should not be limited in time and they need to be designed to encourage participation at all levels of education and skills, with specific focus on gender equality. Any training should be sufficiently adapted to the situations of people looking for a job.

Council of Europe member states should also engage in unequivocal political and financial investment addressing gaps and inequalities across their regional and local arenas. They should develop robust and independent evaluation systems keeping track of the actual impacts and long-term effectiveness of current migration and asylum policies in relation to the integration of individuals, as well as the practical delivery of Council of Europe and EU human rights standards and case law in their daily application.

Methodology

The methodology used in this issue paper is based on a comparative socio-legal analysis comprising several methods. Firstly, there is an overview of relevant EU, Council of Europe and member states' legal and policy documents and a data collection of relevant integration policies and laws, academic literature and other existing studies and reports. Secondly, an e-questionnaire gathered information on national policies and their implementation among relevant authorities and actors in the countries selected, including public authorities and experts from academia and civil society.

The research was conducted from February to April 2018 (with an extension to June 2018). As of 10 April 2018, 33 responses had been gathered from the Council of Europe member states under study. While the results may not be representative from a purely quantitative perspective, the answers gathered present a high qualitative value as they were given by the few experts and practitioners with knowledge in this specific policy area.

Participants in the e-questionnaire included six local authority representatives, seven national officials, seven NGO representatives and 13 academic or independent experts. The e-questionnaire was disseminated by Eurocities among its network of cities, as well as by the European Commission (Directorate General for Migration and Home Affairs) among the relevant national contacts points in the European Integration Network. In addition the e-questionnaire results have been complemented by semi-structured interviews with a selection of high-level practitioners and academics on integration policies.

The issue paper also identifies some practical examples in the member states' mandatory integration policies which present "promising" features enabling non-discriminatory access by third-country nationals, asylum seekers and refugees to human rights standards. These promising features in some cases concern specific policy components, though it must be kept in mind that in any case each national policy must be seen as a whole and cannot be broken down into bits and pieces.

Acknowledgements

The authors would like to express their gratitude to the Special Representative on migration and refugees of the Council of Europe, Ambassador Tomáš Boček, and his Office, in particular to Elvana Thaçi. Special thanks go to all the national experts who provided country-specific information: Jens Vedsted-Hansen (Aarhus University); Eva Ersbøll (Danish Institute for Human Rights), Sine Hav (Danish Refugee Council); Veronica Corcodel (European University Institute), Shoshana Fine (CERI Sciences Po, Paris); Jens Schneider (University of Osnabrück), Holger Kolb (Council of German Foundation on Integration and Migration); Eda Gemi (European University of Tirana), Marina Nikolova (Hellenic Foundation for European and Foreign Policy), Judit Tóth (Szeged University), Virginia Passalacqua (European University Institute); Patrícia Penélope Mendes Jerónimo Vink (University of Minho); Henrik Emilsson (Malmö Institute for Studies of Migration, Diversity and Welfare); Ayhan Kaya (Istanbul Bilgi University); Lyubov Bisson (Institute of Europe of the Russian Academy of Sciences) and Helena Wray (University of Exeter Law School).

The authors wish to thank the following experts for finding time to contribute to the study through interviews: Tineke Strik (Member of the Committee on Migration, Refugees and Displaced Persons, Parliamentary Assembly of the Council of Europe), François Crépeau, Director (Professor at the Centre for Human Rights and Legal Pluralism, Hans & Tamar Oppenheimer Chair in Public International Law, United Nations Special Rapporteur on the Human Rights of Migrants from 2011 to 2017), Thomas Huddleston (Research Director, Migration Policy Group, Brussels) and Yves Pascouau (Senior Adviser to European Policy Centre, Brussels on migration and mobility policies). Special thanks go to all the policy makers and civil society representatives who disseminated and responded to the e-questionnaire elaborated for the purposes of this study, especially to Salvatore Sofia (Policy Advisor at Eurocities), who disseminated the e-questionnaire among relevant cities participating in the Eurocities working group on migration and integration. The authors remain solely responsible for the research findings and conclusions, and any possible error or inaccuracy, included in this issue paper.

Endnotes

Unless otherwise specified, all cases cited in these notes are from the European Court of Human Rights.

1. Turkey witnessed the arrival of persons fleeing war in Syria already in 2011.
2. Council of Europe, White Paper on "Intercultural dialogue: living together as equals in dignity", Council of Europe Ministers of Foreign Affairs, Strasbourg, 7 May 2008.
3. See PACE, "Integration of refugees in times of critical pressure: learning from recent experience and examples of best practice", Resolution 2176 (2017), 28 June 2017.
4. Council of Europe, Recommendation CM/Rec(2008)10 to member states on improving access of migrants and persons of immigrant background to employment (Adopted by the Committee of Ministers on 10 July 2008 at the 1032nd meeting of the Ministers' Deputies), p. 2.
5. United Nations High Commissioner for Human Rights (2007), "Note on the integration of refugees in the European Union", June; see also UN High Commissioner for Human Rights (2013), "A new beginning: refugee integration in Europe", Bureau for Europe, September.
6. S. Carrera and A. Faure-Atger (2011), *Integration as a two-way process in the EU? Assessing the relationship between the European Integration Fund and the common basic principles on integration*, CEPS, Brussels.
7. Council of Europe, *Measurement and Indicators of Integration*, Introduction, Directorate of Social and Economic Affairs, Council of Europe Publishing: Strasbourg, p. 8.
8. T. Strik, "Integration tests: helping or hindering integration?", Committee on Migration, Refugees and Displaced Persons, Doc. 13361, 4 December 2013.
9. Carrera, S. (2016), "Civic integration exams in EU immigration law: what integration is not in European law", in H. Verschueren (ed.), *Residence, employment and social rights of mobile persons: on how EU law defines where they belong*, Intersentia, pp. 129-60.
10. The family reunification case law has typically focused on Article 8 of the Convention. Article 12 of the Convention has been cited mainly in claims arising from sham marriage controls, which fall outside the scope of this study. See for instance *O'Donoghue v. the United Kingdom*, Judgment of 14 December 2010, Application No. 34808/07.
11. *Boultif v. Switzerland*, Judgment of 5 October 2000, Application No. 54273/00.
12. *Üner v. the Netherlands*, Judgment of 5 July 2005, Application No. 46410/99.
13. *Boughanemi v. France*, Judgment of 24 April 1996, Application No. 22070/93; *Kaya v. Germany*, Judgment of 28 June 2007, Application No. 31753/02.
14. *Baghli v. France*, Judgment of 30 November 1999, Application No. 34374/97; *Üner v. Netherlands*, Judgment of 5 July 2005, Application No. 46410/99.
15. *Kaya v. Germany*, Judgment of 28 June 2007, Application No. 31753/02; *Beldjoudi v. France*, 13 July 1995, Application No. 19465/92.
16. *Silvenko v. Latvia*, Judgment of 9 October 2003, Application No. 48321/99.
17. *Abdulaziz, Cabales, and Balkandali v. United Kingdom*, Judgment of 29 May 1985, Application Nos. 9214/80, 9473/81, 9474/81; *Ahmut v. the Netherlands*, Judgment of 28 November 1996, Application No. 21702/93; *Sen v. the Netherlands*, Judgment of 21 December 2001, Application No. 31465/96; *IM v. the Netherlands*, Judgment of 25 March 2008, Application No. 41226/98; *Haydarie and Others v. the Netherlands*, Judgment of 20 October 2005, Application No. 8876/04; *Tuquabo-Tekle and Others v. the Netherlands*, Judgment of 1 December 2005, Application No. 60665/00; *Osman v. Denmark*, Judgment of 14 June 2011, Application No. 38058/09; *Biao v. Denmark* (Grand Chamber), Judgment of 24 May 2016, Application No. 38590/10.
18. *Gül v. Switzerland*, Judgment of 19 February 1996, Application No. 23218/94.
19. *Abdulaziz, Cabales, and Balkandali v. the United Kingdom*, Judgment of 29 May 1985, Application Nos. 9214/80, 9473/81, 9474/81.
20. *Gül v. Switzerland*, Judgment of 19 February 1996, Application No. 23218/94; *Ahmut v. the Netherlands*, Judgment of 28 November 1996, Application, No. 21702/93; *Sen v. the Netherlands*, Judgment of 21 December 2001, Application No. 31465/96; *IM v. the Netherlands*, Judgment of 25 March 2008, Application No. 41226/98; *Haydarie and Others v. the Netherlands*, Judgment of 20 October 2005, Application No. 8876/04; *Tuquabo-Tekle and Others v. the Netherlands*, Judgment of 1 December 2005, Application No. 60665/00; *Osman v. Denmark*, Judgment of 14 June 2011, Application No. 38058/09.
21. *Sen v. the Netherlands*, Judgment of 21 December 2001, Application No. 31465/96.

22. A similar judgment was held by the Court in *Tuquabo-Tekle and Others v. the Netherlands*, 1 March 2006, Application no. 60665/00.
23. *Sen v. the Netherlands*, Judgment of 21 December 2001, para. 41; *Tuquabo-Tekle and Others v. the Netherlands*, Judgment of 1 December 2005, Application No. 60665/00.
24. *Gül v. Switzerland*, Judgment of 19 February 1996, Application No. 23218/94; *Ahmut v. the Netherlands*, Judgment of 28 November 1996, Application No. 21702/93.
25. *Sen v. the Netherlands*, Judgment of 21 December 2001, Application No. 31465/96.
26. *Tuquabo-Tekle and Others v. the Netherlands*, Judgment of 1 December 2005, Application No. 60665/00.
27. Council of Europe, Commissioner for Human Rights, "Realising the right to family reunification of refugees in Europe", June 2017, pp. 21-6.
28. *Mengesha Kimfe v. Switzerland*, Judgment 9 July 2010, Application No. 24404/05. For a detailed analysis of Council of Europe human rights standards on family reunification, refer to C. Costello, K. Groenendijk and L. Halleskov (2017), "Realising the right to family reunification of refugees in Europe", Council of Europe Issue Paper, June 2017.
29. As of 26 July 2018, 20 state parties have ratified Protocol No. 12.
30. *Biao v. Denmark* (Grand Chamber), Judgment of 24 May 2016, Application No. 38590/10.
31. As previously developed by the Court in *D. H. and Others v. the Czech Republic*, Judgment of 13 November 2007, Application No. 57325/00.
32. State parties submit annual reports on their implementation of the Charter in law and in practice, on the basis of which the Committee decides whether the countries concerned are in conformity with the Charter. See www.coe.int/en/web/turin-european-social-charter/national-reports, accessed 17 October 2018.
33. European Committee of Social Rights, Conclusions XVIII-1 – Greece – Article 19-6, document number XVIII 1/def/GRC/19/6/EN, 2006.
34. European Committee of Social Rights, Conclusions XVIII-1 – Greece – Article 19-6, document number XVIII 1/def/GRC/19/6/EN, 2006; Conclusions XVIII-1 – Austria – Article 19-6, document number XVIII-1/def/AUT/19/6/EN, 2006.
35. European Committee of Social Rights, Conclusions 2011 – Belgium – Article 19-6, document number 2011/def/BEL/19/6/EN, 2011.
36. European Committee of Social Rights, Conclusions XIII-1, Netherlands – Article 19-6.
37. See www.coe.int/t/democracy/migration/ressources/recommendations-resolutions_en.asp. See also Council of Europe, "Adult migrants: integration and education – Extracts from conventions, recommendations, resolutions and reports", compiled by the Language Policy Programme, rev. 2017, Strasbourg.
38. Recommendation CM/Rec(2011)1 of the Committee of Ministers to member states on interaction between migrants and receiving societies (Adopted by the Committee of Ministers on 19 January 2011 at the 1103rd meeting of the Ministers' Deputies).
39. Recommendation CM/Rec(2011)13 of the Committee of Ministers to member states on mobility, migration and access to health care (Adopted by the Committee of Ministers on 16 November 2011 at the 1126th meeting of the Ministers' Deputies). The Recommendation proclaimed that "Collaboration between ministries or relevant authorities is recommended in order to incorporate health promotion and health education for migrants into integration programmes, and to ensure observance of the principle "health in all policies"... a high level of co-ordination between health and social services may be required because the health problems of migrants are often rooted in social or practical difficulties that require interventions by non-medical agencies", paragraph 24.
40. Recommendation CM/Rec(2008)10 of the Committee of Ministers to member states on improving access of migrants and persons of immigrant background to employment (Adopted by the Committee of Ministers on 10 July 2008 at the 1032nd meeting of the Ministers' Deputies).
41. *Ibid.*, paras. 15-17.
42. Recommendation Rec(2002)4 of the Committee of Ministers to member states on the legal status of persons admitted for family reunification (Adopted by the Committee of Ministers on 26 March 2002 at the 790th meeting of the Ministers' Deputies).
43. Adopted by the Assembly on 29 January 2014 (6th Sitting) on the basis of the report by Tineke Strik, "Integration tests: helping or hindering integration?", Committee on Migration, Refugees and Displaced Persons, Doc. 1336, 4 December 2013.
44. Council of Europe, Parliamentary Assembly, Recommendation 1686 (2004), "Human mobility and the right to family reunion", 23 November 2004, para. 11, available at <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=17277&lang=en>, accessed 17 October 2018.

45. Council of Europe, Commissioner for Human Rights, "Realising the right to family reunification of refugees in Europe", June 2017, pp. 7-10.
46. European Commission, Communication on guidance for application of Directive 2003/86/EC on the right to family reunification, COM (2014) 210 final, Brussels, 3 April 2014, p. 4.
47. See Article 3(1) of the Family Reunification Directive (FRD).
48. In addition, there are two more derogations in the final sentence of articles 4(1) and 4(6) of the Family Reunification Directive with regard to children, but they have the character of a standstill clause and can be applied in only a few member states.
49. Article 6 of the FRD.
50. Article 7(1)(a) of the directive covers "normal accommodation". In member states making use of this requirement, the sponsor should submit evidence as part of the family reunification application that the person has "normal accommodation" for a comparable family in the same region and that it meets the general health and safety standards in force in the member state. Evaluation of this requirement is left to the discretion of the member states. However, "the criteria adopted may not be discriminatory and this provision defines the upper limit of what may be required". The adopted criteria need to be transparent and clearly specified in the national legislation and "the fulfilment of this requirement may be judged on either the situation of the sponsor at the moment of the application, or on a reasonable prognosis of the accommodation that can be expected to be available when the sponsor will be joined by his/her family member(s)". European Commission Communication on guidance for application of Directive 2003/86/EC on the right to family reunification, COM (2014) 210 final, Brussels, 3 April 2014, p. 11.
51. Article 7(1)(b) of the FRD. Member states may also require from the sponsor sickness insurance in respect of all risks normally covered for their own nationals in the member state concerned for the sponsor and his/her family members.
52. The "stable and regular resources" notion is covered by Article 7(1)(c) of the directive. Member states that impose this requirement have to evaluate these resources by reference to their nature and regularity and may take into account the level of minimum national wages and pensions as well as the number of family members. After the *Chakroun* case, this provision should be interpreted strictly and the margin for manoeuvre of the member states "must not be used by them in a manner which would undermine the objective of the Directive, which is to promote family reunification, and the effectiveness thereof". According to the European Commission, the assessment of the stability and regularity of the sponsor's resources has to be based on a prognosis that the resources can reasonably be expected to be available in the foreseeable future. The Court clarified in the *Chakroun* case what "sufficient to maintain the sponsor and his/her family members, without recourse to the social assistance system" means. The concept of social assistance must be interpreted as referring to "assistance which compensates for a lack of stable, regular and sufficient resources, and not as referring to assistance which enables exceptional or unforeseen needs to be addressed." European Commission, Communication on guidance for application of Directive 2003/86/EC, p. 13. On Article 7(1)(c), see Case C-558/14 – *Khachab*, ECLI:EU:C:2016:285.
53. Article 8 of the directive provides for a waiting period, subject to certain derogations. Member states are allowed to retain a three-year waiting period between the submission of an application and the issue of a residence permit to a family member on the basis of national law, if that legislation in force on the date of the adoption of the Family Reunification Directive took account of the member state's reception capacity. In the case *European Parliament v. Council of the European Union* the CJEU noted that member states can delay the reunification in accordance with their margin of appreciation, in order to provide for the better integration of family members. If member states decide to use this option, they should make an individual case-by-case assessment and they should not impose a general blanket waiting period. They should also take into consideration the best interests of any minor children. In its Guidelines, the Commission recommends to member states to keep those waiting periods as short as possible so as to avoid affecting the right to family life disproportionately.
54. Case C-578/08, *Chakroun*, ECLI:EU:C:2010:117, para. 43.
55. European Commission, Communication on guidance for application of Directive 2003/86/EC on the right to family reunification, COM (2014) 210 final, Brussels, 3 April 2014, p. 17.
56. Article 12(2) waiving Article 8. In addition, the special limits on children over twelve under the third sub-paragraph of Article 4(1) cannot apply. See Article 10(1).
57. Article 12(1) waiving Article 7.
58. Article 14(1) FRD
59. Article 14(2) FRD.

60. The Long-term Residence Directive (LTRD) was amended in 2011 to include in its scope also refugees and persons who have subsidiary protection. See Directive 2011/51.
61. Recital 6 of the Preamble to the LTRD and Article 4(1) of the LTRD.
62. Article 5(1) of the LTRD.
63. Case C-578/08 *Rhimou Chakroun v. Minister van Buitenlandse Zaken*, ECLI:EU:C:2010:117.
64. Article 5(2) of the LTRD.
65. Case C-579/13 – *P and S v. Commissie Sociale Zekerheid Breda and College van Burgemeester en Wethouders van de gemeente Amstelveen*, ECLI:EU:C:2015:369.
66. *Ibid.*, paras. 49-54.
67. Article 11(1)(a) LTRD.
68. Directive on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment, 2009/50/EC, 25 May 2009.
69. Directive on the conditions of entry and residence of third-country nationals for the purposes of research, studies, training, voluntary service, pupil exchange schemes or educational projects and au pairing (recast), 2016/801, 11 May 2016.
70. Directive 2014/66/EU of the European Parliament and of the Council of 15 May 2014 on the conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer, 15 May 2014.
71. Directive on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast), 2011/95/EU, 13 December 2011.
72. Directive laying down standards for the reception of applicants for international protection (recast) 2013/33/EU, 26 June 2013.
73. Case C-578/08 *Chakroun*, ECLI:EU:C:2010:117, para. 43; Case C-153/14, *K and A*, ECLI:EU:C:2015:453, para. 57.
74. European Commission, Communication on Guidance for application of Directive 2003/86/EC on the right to family reunification, COM (2014) 210 final, Brussels, 3 April 2014, p. 16, footnote 55. See also Case C-578/08, *Chakroun*, ECLI:EU:C:2010:117, para. 48.
75. Case C-153/14 – *K and A*, ECLI:EU:C:2015:453, para. 58.
76. See Case C-153/14 – *K and A*, ECLI:EU:C:2015:453, para. 53. This is also in line with Article 17 FRD.
77. European Commission, Communication on Guidance for application of Directive 2003/86/EC on the right to family reunification, COM (2014) 210 final, Brussels, 3 April 2014, p. 16. See also Case C-153/14 – *K and A*, ECLI:EU:C:2015:453, para. 58.
78. European Commission, Communication on Guidance for application of Directive 2003/86/EC on the right to family reunification, COM (2014) 210 final, Brussels, 3 April 2014, p. 16.
79. Case C-153/14 – *K and A*, ECLI:EU:C:2015:453, paras. 56-58, and paras. 69 and 71 on the fees. Case C-579/13 – *P and S*, ECLI:EU:C:2015:369, para. 49; see also para. 54 on the amount of a fine penalising failure to comply.
80. Case C-153/14 – *K and A*, ECLI:EU:C:2015:453, para. 56.
81. Home Office, “Family reunification of third country nationals in the European Union”, national contribution from the United Kingdom to the EMN (2017), p. 3.
82. *Ibid.*, p. 4. There are limited exemptions to the minimum income requirement, including where the sponsor is in receipt of disability benefits.
83. *Ibid.*, p. 4.
84. Children’s Commissioner for England, *Family friendly? The impact on children of the family migration rules: a review of the financial requirements* (2015), pp. 106-12.
85. European Migration Network (EMN), “Family reunification of TCNs in the EU: national practices – Sweden” (2016), p. 26.
86. *Ibid.*, p. 26.
87. *Ibid.*, p. 26.
88. *Ibid.*, p. 26.
89. *Ibid.*, p. 26.
90. ECRI Fifth Report on Sweden, 27 February 2018, CRI(2018)3, p. 23.
91. J. Grote, “Family reunification of third-country nationals in Germany”, Focus-study by the German National Contact Point for the EMN, Working Paper (2017), p. 18, available at www.bamf.de/SharedDocs/Anlagen/EN/Publikationen/EMN/Studien/wp73-emn-familiennachzug-drittstaatsangehoerige-deutschland.html?nn=3838642, accessed 17 October 2018.

92. See Council of Europe Commissioner for Human Rights, "Ending restrictions on family reunification: good for refugees, good for host societies", Human Rights Comment, Strasbourg 26 October 2017, available at www.coe.int/en/web/commissioner/-/ending-restrictions-on-family-reunification-good-for-refugees-good-for-host-societies, accessed 17 October 2018.
93. According to section 2.4.2 of the General Administrative Regulation to the Residence Act, sufficient living space is usually deemed to be available if 12 sq m of living space are available to each family member aged above six and 10 sq m of living space for each family member aged below six. Adequate availability of the facilities (kitchen, bathrooms, lavatories) must be ensured. A shortfall of about 10% is acceptable. In Grote, "Family reunification", EMN (2017), p. 23.
94. "The following benefits shall not constitute recourse to public funds: child benefits, children's allowances, child-raising benefits, parental allowances, educational and training assistance in accordance with Book Three of the Social Code, the Federal Education Assistance Act or the Upgrading Training Assistance Act, public funds based on own contributions or granted in order to enable residence in Germany and grants of advances for the maintenance of children" (Section 2 subsection 3 sentence 1 of the Residence Act). In Grote, "Family reunification", EMN (2017), p. 23.
95. See *ibid.*, p. 24 for more details.
96. *Ibid.*, p. 18.
97. Article L411-1 CESEDA. See also French Contact Point for the EMN, Third Focussed Study 2016, "Family reunification of third-country nationals in France" (2017), p. 21.
98. *Ibid.*, p. 16. Article R.411-5 of the CESEDA stipulates, that in order to be considered "normal", the accommodation must have the surface area (variable according to the specific urban area) and the level of equipment and hygiene standards set by articles 2 and 3 of Decree no. 2002-120 of 30 January 2002.
99. In accordance with Article R.421-7 of the CESEDA. In EMN, "Family reunification in France", p. 16.
100. *Ibid.*, p. 17.
101. Retirement equivalent benefit, active solidarity revenue, elderly persons' solidarity benefit, specific solidarity benefit and temporary waiting allowance. *Ibid.*, p. 17.
102. *Ibid.*, p. 17.
103. *Ibid.*, p. 15.
104. For more details, see EMN, "Family reunification of TCNs in the EU: national practices – Hungary" (2016), p. 10.
105. Subject to exemptions under exceptional conditions. In *ibid.*, p. 11.
106. *Ibid.*, p. 11.
107. *Ibid.*, p. 11.
108. In Italy there is a special rule for family reunification of parents above 65. For more details, see EMN, "Family reunification of TCNs in the EU: national practices – Italy" (2016), p. 7.
109. If there is a child under 14 with one of the parents, the only requirement is the consent of the holder of the accommodation in which the child will live. *Ibid.*, p. 7.
110. *Ibid.*, pp. 7-8.
111. Dependent children over 18 can also join the sponsor but only if they have an extremely serious disability (i.e. 100% invalid). See Article 29(1.c) of the Italian Testo Unico Immigrazione 286/1998.
112. "Independent" means that the residence has an entrance of its own and appears as one unit, though it does not need to have a kitchen or bathroom of its own. 'Reasonably sized' means that, by the time the spouse/partner is approved for family reunification, the sponsor's residence needs to meet one of the following requirements: either the number of people living in the residence may not be more than double the number of rooms, or there must be at least 20 sq m of living space for each person living there. See www.nyidanmark.dk/en-GB/You-want-to-apply/Family/Family-reunification/Spouse-or-cohabiting-partner, accessed 17 October 2018.
113. For more information on the specific benefits, see [www.nyidanmark.dk/en-GB/Words-and-concepts/US/Familie/Public-benefits-\(family-reunification-and-permanent-residence\)?anchor=CE8A64B22DAC4153B6BEF0CCB6C3FEFE&callbackItem=2D4FC4DEC12143A38889D3F6237CE3AC&callbackAnchor=26517629C68E4983AE8A05F3A8B4424A](http://www.nyidanmark.dk/en-GB/Words-and-concepts/US/Familie/Public-benefits-(family-reunification-and-permanent-residence)?anchor=CE8A64B22DAC4153B6BEF0CCB6C3FEFE&callbackItem=2D4FC4DEC12143A38889D3F6237CE3AC&callbackAnchor=26517629C68E4983AE8A05F3A8B4424A), accessed 17 October 2018.
114. See www.nyidanmark.dk/en-GB/You-want-to-apply/Family/Family-reunification/Child, accessed 17 October 2018.
115. See www.nyidanmark.dk/en-GB/You-want-to-apply/Family, accessed 17 October 2018.
116. ECRI Report on Denmark (fifth monitoring cycle), CRI(2017)20, 16 May 2017, para. 78.
117. Migrant Integration Policy Index (MIPEX), Greece Policy Scores, XLSX, available at www.mipex.eu/greece, accessed 17 October 2018.

118. See Article 35 LFIP. See also MIPEX, Turkey Policy Scores, XLSX, available at www.mipex.eu/turkey, accessed 17 October 2018.
119. Article 35/1/a of Law 4817.
120. SG/Inf(2016)29, Report of the fact-finding mission to Turkey by Ambassador Tomáš Boček, Special Representative of the Secretary General on migration and refugees, 30 May–4 June 2016, published 10 August 2016.
121. Federal Law No. 114-FZ of 15 August 1996 on Procedure for Exit from and Entry Into the Russian Federation, *Rossiiskaia Gazeta* (official publication), No. 159, 22 August 1996, available (in Russian) at www.loc.gov/law/help/family-reunification/foreign.php#_ftn264, accessed 17 October 2018.
122. MIPEX Greece and Portugal Policy Scores, XLSX, available at www.mipex.eu/greece and www.mipex.eu/portugal, both accessed 17 October 2018.
123. MIPEX Turkey Policy Scores, XLSX, available at www.mipex.eu/turkey, accessed 17 October 2018.
124. According to ECRI, “in 2014 26 000 people participated in 1 479 language courses”, ECRI Report on Turkey, Fifth Reporting Period, October 2016, CRI(2016)37, p. 27.
125. *Ibid.*, pp. 28 and 29.
126. P. W. A. Scholten *et al.*, *Integration from abroad? Perception and impacts of pre-entry tests for third country nationals, promoting sustainable policies for integration* (2012), pp. 7-8. For more detailed information, see Grote, “Family reunification”, EMN (2017).
127. The CEFR defines proficiency at six ascending common reference levels arranged in three bands: A1 and A2: basic user; B1 and B2: independent user; C1 and C2: proficient user. The CEFR uses a series of descriptors to indicate precisely a learner’s level of competence in each of the areas of speaking, listening, reading and writing (there are 34 scales, summarised in a “self-assessment grid”).
128. Grote, “Family reunification ... in Germany”, EMN (2017), p. 25; Y. Pascouau, *Measures and rules developed in the EU member states regarding integration of third country nationals – comparative report*, European Policy Centre (2014), p. 42.
129. Pascouau, *Measures and rules*, EPC (2014), p. 25.
130. *Ibid.*, p. 42.
131. *Ibid.*, p. 43.
132. MIPEX, Germany Policy Scores, XLSX, available at www.mipex.eu/germany, accessed 17 October 2018.
133. S. Carrera and A. Wiesbrock, *Civic integration of third country nationals: nationalism v. Europeanisation in the common EU immigration policy*, CEPS Liberty and Security in Europe, Brussels (2009).
134. Section 30 subsections 2 and 3 of the Residence Act. In Grote, “Family reunification”, EMN (2017), p. 35.
135. Pascouau, *Measures and rules*, EPC (2014), p. 38; Scholten *et al.*, *Integration from abroad?*, p. 18.
136. Scholten *et al.*, *Integration from abroad?*, p. 18.
137. MIPEX, United Kingdom Policy Scores, XLSX, available at www.mipex.eu/united-kingdom, accessed 17 October 2018. For more details, see Pascouau, *Measures and rules*, EPC (2014), pp. 40-44.
138. See Pascouau, *Measures and rules*, EPC (2014), p. 39; MIPEX, France Policy Scores, XLSX, available at www.mipex.eu/france, accessed 17 October 2018.
139. *Ibid.*
140. *Ibid.*
141. Pascouau, *Measures and rules*, EPC (2014), p. 43.
142. V. Cesareo (ed.), ‘The twenty-third Italian report on migrations, 2017’, Fondazione ISMU (2018), p. 116.
143. Charter of Citizenship and Integration Values, available at www.integrazionemigranti.gov.it/en/latest-news/highlights/Pages/Integration-agreement.aspx, accessed 17 October 2018. Refer to Article 4-bis, para. 2 of Legislative Decree No. 286/98, implemented by Presidential Decree No. 179.
144. In some regions migrants have to pay for the language courses to guarantee that they will take a minimum number of lessons; they are reimbursed afterwards. For more information, see <http://milano.italianostranieri.org/en/post/italian-and-integration-agreement>, accessed 17 October 2018.
145. Expulsion requires authorisation by a judge. Refer to Article 13.5-bis, Legislative Decree No. 286/98.
146. Article 4bis of *Testo Unico Immigrazione* excludes from these requirements refugees, asylum seekers, people with subsidiary protection, humanitarian protection, a permit on humanitarian grounds or family reasons, long-term residents, family members of Union citizens and holders of a permit for family reunion. In addition, a circular of February 2014 explicitly provides that, since they cannot be penalised, the *Prefettura* should not carry out the check on their integration requirements. See Circular of the Interior Minister no. 824 of 10 February 2014.

147. An attempt to gather existing data was carried out in “Integration: know it, measure it, assess it”, a study by the Istituto Nazionale di Statistica (ISTAT) and the Ministry of the Interior in 2013; see www.istat.it/it/files/2012/12/PROG-102655-Volume_Integrazione_ITA.pdf (in Italian), accessed 18 October 2018.
148. ECRI Report on Italy (2016), fifth monitoring cycle, 7 June 2016, CRI(2016)19, p. 26.
149. *Ibid.*, p. 23.
150. For more details, see Ministry of Interior, National Integration Plan for Persons Entitled to International Protection, October 2017, p. 23.
151. See Article 22, D.Lgs. n. 142/2015.
152. Information Documents SG/Inf(2017)8, Report of the fact-finding mission to Italy by Ambassador Tomáš Boček, Special Representative of the Secretary General on migration and refugees, 16-21 October 2016, published 2 March 2017.
153. For more information, see www.service-public.fr/particuliers/vosdroits/F17048, accessed 18 October 2018.
154. MIPEX, France Policy scores, XLSX, www.mipex.eu/france, accessed 17 October 2018.
155. See ECRI Report on France, fifth monitoring cycle, 1 March 2016, CRI(2016)1, para. 61, p. 25. According to a 2011 study by the National Institute for Statistics and Economics (INSEE), a majority of third-country nationals living in the region of Île-de-France consider themselves victims of discrimination in comparison with French nationals. See INSEE (2011), *Île-de-France*, No. 376 : “L'accès à l'emploi et au logement s'améliore pour les immigrés à Paris mais les inégalités et les discriminations persistent.”
156. ECRI Report on France, CRI(2016)1, para. 58.
157. ECRI Report on France, CRI(2016)1, para. 63, p. 25. See also M. Safi, *Shifting focus: policies to support the labour market – integration of new immigrants in France*, MPI International (2014).
158. Rapport au Premier Ministre, “72 propositions pour une politique ambitieuse d'intégration des étrangers arrivent en France”, February 2018.
159. *Integrationsloven* ~ Act on Integration (Consolidation Act no. 1127, 11 October 2017).
160. As of 1 January 2019 this requirement will be 9 out of the last 10 years, cf. Amending Act no. 743 of 8 June 2018: see www.ft.dk/samling/20171/lovforslag/l239/index.htm, accessed 18 October 2018.
161. For more details of all these provisions, see www.thelocal.dk/20180208/new-demands-placed-on-foreign-spouses-in-new-family-reunification-rules, accessed 18 October 2018.
162. For more details of these exemptions, see www.nyidanmark.dk/en-GB/You-want-to-apply/Family/Family-reunification/Spouse-or-cohabiting-partner, accessed 17 October 2018.
163. Aliens Act, sections 13 and 14. See MIPEX, Denmark Policy Scores, XLSX, www.mipex.eu/denmark, accessed 17 October 2018.
164. ECRI Report on Denmark, fifth monitoring cycle, 16 May 2017, CRI(2017)20, para. 69, p. 22.
165. See for instance *ibid.*, para. 67, p. 22.
166. *Ibid.*, para. 68.
167. *Ibid.*, paras. 71-74, p. 23.
168. According to the 2014 amendments to Federal Law No. 115-F3 of 25 July 2002 “On the legal Status of Foreign Citizens in the Russian Federation”.
169. Order of the Ministry of Education No 1156, 29 August 2014.
170. Russia, Belarus, Armenia, Kazakhstan and Kyrgyzstan.
171. Law No. 99-FZ of 24 May 1999.
172. E. Varshaver, A. Rocheva and N. Ivanova (2017), “Assessment of the regulatory impact of the Law on the Complex Exam: results of a case study”, Russian Presidential Academy of National Economy and Public Administration (RANEPA) – Center for Regional Studies and Urban Studies, 27 April 2017.
173. ECRI Report on the Russian Federation, fourth monitoring cycle, CRI(2013)40, adopted on 20 June 2013, published on 15 October 2013.
174. ECRI Conclusions on the implementation of the Recommendations in respect of the Russian Federation subject to interim follow-up, adopted on 17 March 2016, published on 7 June 2016.
175. For more details, see www.bamf.de/EN/Willkommen/DeutschLernen/Integrationskurse/TeilnahmeKosten/teilnahmekosten-node.html, accessed 18 October 2018.
176. R. Kohle-Seidl, “Integration of refugees in Austria, Germany and Sweden: comparative analysis”, European Parliament Think Tank (2018), p. 33.
177. Pascouau, *Measures and rules*, EPC (2014), p. 57.

178. Bill 2016/17:175. New regulations for introduction programs. Regulated in Ordinance 2017:820, and other laws and regulations.
179. *Ibid.*
180. For more information, see www.regeringen.se/artiklar/2017/11/nyanlandas-etablering-en-effektiv-etableringstid/, accessed 18 October 2018.
181. ECRI Fifth Report on Sweden, CRI(2018)3, p. 9.
182. Ministry of Integration and Gender Equality, Swedish integration policy Fact Sheet, December 2009, available at www.government.se/49b72d/contentassets/b055a941e7a247348f1acf6ade2fd876/swedish-integration-policy-fact-sheet-in-english, accessed 18 October 2018.
183. ECRI Fifth Report on Sweden, CRI(2018)3, p. 22. See also Organisation for Economic Cooperation and Development, *Finding the way: a discussion of the Swedish migrant integration system* (2014), p. 20.
184. ECRI Fifth Report on Sweden, CRI(2018)3, p. 22.
185. For more information, see the following news items: www.ecre.org/hungarian-government-continues-assault-on-rights-of-refugees-with-draft-legislation/; www.boell.de/en/2017/05/10/serious-human-rights-violations-hungarian-asylum-system; and www.abc.net.au/news/2016-06-12/hungary-to-decide-on-eu-refugee-resettlement-quotas/7499876, all accessed 18 October 2018.
186. Pascouau, *Measures and rules*, EPC (2014), p. 57. For more details, see www.migszol.com/blog/category/integration, accessed 18 October 2018.
187. See www.bmbah.hu/index.php?option=com_k2&view=item&layout=item&id=960&Itemid=1587&lang=en, accessed 18 October 2018.
188. See www.migszol.com/blog/category/integration, accessed 18 October 2018.
189. MIPEX Hungary Policy Scores, XLSX, available at www.mipex.eu/hungary, accessed 17 October 2018.
190. The LTRD binds all EU member states except Ireland, the United Kingdom and Denmark.
191. European Commission, Report on the application of Directive 2003/109/EC concerning the status of third-country nationals who are long-term residents, Brussels, 28 Sep 2011, COM(2011)585 final, p. 3.
192. See for instance Z. Vankova, *Circular migration from the eastern neighborhood to the EU*, Wolf Legal Publishers (2018), p. 347; and L. Tsourdi, *Towards a right of permanent residence for long-term migrants*, Churches' Commission for Migrants in Europe (2011), p. 35.
193. See MIPEX Portugal Policy Scores, XLSX, www.mipex.eu/portugal, accessed 18 October 2018.
194. For more information see www.acm.gov.pt/-/programa-ppt-portugues-para-todos, accessed 19 October 2018.
195. Introduced by Law 3879/2010, Development of Lifelong learning and other provisions, Article 26, para. 7a: 21 September 2010.
196. According to the Code of Migration 2014, Article 107, para. 1; pursuant to Presidential Decree 60/2010. See MIPEX, Greece Policy Scores, XLSX, www.mipex.eu/greece, accessed 17 October 2018.
197. Article 107, para. 1, Code of Migration and Integration 2014.
198. For more details, see www.interno.gov.it/it/temi/immigrazione-e-asilo/modalita-dingresso/test-conoscenza-lingua-italiana (in Italian), accessed 18 October 2018.
199. For more details see www.nyidanmark.dk/en-GB/You-want-to-apply/Permanent-residence-permit/Permanent-residence, accessed 18 October 2018.
200. For the full list of requirements, see www.nyidanmark.dk/en-GB/You-want-to-apply/Permanent-residence-permit/Permanent-residence, accessed 18 October 2018.
201. For more details of the four supplementary requirements, see: www.nyidanmark.dk/en-GB/You-want-to-apply/Permanent-residence-permit/Permanent-residence, accessed 17 October 2018.
202. See Pascouau, *Measures and rules*, EPC (2014), p. 97. For more details, see www.bamf.de/EN/Willkommen/DeutschLernen/Integrationskurse/Abschlusspruefung/ZertifikatIntegrationsKurs/zertifikatintegrationskurs-node.html, accessed 18 October 2018.
203. MIPEX, United Kingdom Policy Scores, XLSX, Permanent Residence, www.mipex.eu/united-kingdom, accessed 18 October 2018.
204. ECRI Report on the United Kingdom, October 2016, CRI(2016)38, p. 34.
205. See Scottish Government (2017), "New Scots: integrating refugees in Scotland's communities 2014-2017", Final Report, available at <https://beta.gov.scot/publications/new-scots-integrating-refugees-scotlands-communities-2014-2017-final-report-9781786526960/> and the new Strategy at www.gov.scot/Publications/2018/01/7281, both accessed 18 October 2018. See also <https://gov.wales/statistics-and-research/refugee-inclusion-strategy/?lang=en>, accessed 18 October 2018.

206. Interview No. 2. For more details, see research results of the project INTEC: Research programme on Integration and Naturalisation tests, available at www.ru.nl/law/cmr/research/projects/intec/, accessed 18 October 2018.
207. Ibid.
208. On this topic, see also Council of Europe, Commissioner for Human Rights, "Time for Europe to get migrant integration right", May 2016, p. 20.
209. Responses by the network of cities co-ordinated by Eurocities (Working Group on Migration and Integration) to the e-questionnaire. See www.integratingcities.eu/, accessed 18 October 2018.
210. Of the 31 respondents who answered this question, 45% responded positively, 35% answered that they did not know and 19% answered that there were no unintended consequences.
211. For Sweden, see for instance www.dua.se/om-delegationen/kontakta-oss (in Swedish) and www.ifau.se/sv/Forskning/Publikationer/Working-papers/2017/labour-market-entry-of-non-labour-migrants--swedish-evidence, both accessed 19 October 2018. For Portugal, see www.acm.gov.pt/documents/10181/222357/Relat%C3%B3rio+de+Execu%C3%A7%C3%A3o+PEM+2015-2016.pdf/372fda14-1fc5-4450-a832-0bf4d8cf4c25 (in Portuguese), accessed 19 October 2018.

This Issue Paper examines integration policies regarding immigrants and refugees in selected Council of Europe member states in light of human rights standards. In particular, it focuses on how the enjoyment of the right to respect for private and family life and the security of residence of immigrants and refugees facilitate and improve integration policies. It covers the adverse effects that mandatory language and civic integration policies and some other conditions such as income thresholds, housing requirements and reduced financial benefits might have on the socio-economic inclusion of immigrants and refugees. While taking stock of integration policies in some of the European countries which experienced unprecedented massive arrivals of migrants and refugees in the last five years the Issue Paper offers a comparative basis for identifying good integration practices.

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