

CDDH comments on the Parliamentary Assembly Recommendation 2141(2018) “FAMILY REUNIFICATION OF REFUGEES AND MIGRANTS IN THE COUNCIL OF EUROPE MEMBER STATES”

90th meeting - 27–30 November 2018 - CDDH(2018)R90

1. The Steering Committee for Human rights takes note of Parliamentary Assembly Recommendation 2141 (2018) “*Family reunification of refugees and migrants in the Council of Europe member States*”. It underlines the necessity to protect the right to respect for family life as recognised by Article 8 of the European Convention on Human Rights and the relevant case-law of the Court.
2. The CDDH recalls Article 19(6) of the European Social Charter which obliges Contracting States to facilitate the family reunion of migrant workers who legally reside in the country, and the relevant conclusions of the European Committee of Social Rights,¹ specifying that this provision also apply to refugees.
3. The CDDH draws attention to Recommendation CM/Rec (2007)9 of the Committee of Ministers to member States on life projects for unaccompanied migrant minors. Paragraphs 18 and 24 encourage member States to seek the parents/guardians of unaccompanied minors, establishing contact to facilitate possible family reunification and/or to expedite departure to a third country to join family members. It also recalls Recommendation No. R(99)23 of the Committee of Ministers on family reunion for refugees and other persons in need of international protection, as well as Recommendation (2002)4 on the legal status of persons admitted for family reunification.
4. In this context, the CDDH welcomes the work of the Special Representative of the Secretary General for Migration and Refugees. This work includes the drafting of a manual on the standards and good practices for restoring family links and family reunification. The manual aims at facilitating the cooperation and training of relevant professionals in Council of Europe member States. The CDDH Drafting Group on Migration and Human Rights (CDDH-MIG) has also, *inter alia*, addressed the topic of the right to respect for family life in the context of immigration detention and alternatives to immigration detention. Furthermore, in October 2018, it deliberated on future work on reception conditions for migrant and refugee children. The Commissioner for Human Rights has also addressed the issue of family reunification of refugees in Europe in an Issue paper in 2017.²
5. As regards the issue of human trafficking emphasized in the Parliamentary Assembly Recommendation 2141 (2018), the CDDH highlights in particular the on-going work of the Group of Experts on Action against Trafficking in Human Beings (GRETA) in the field, which in recent years has prioritised and outlined targeted prevention measures against the human trafficking of unaccompanied or separated minors and irregular migrant children.

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¹ See a summary of the ECSR Conclusions 2015 including on article 19(6) in the Activity Report 2015 of the European Committee of Social Rights.

² Issue paper by the Council of Europe Commissioner for Human Rights, “Realising the right to family reunification of refugees in Europe”, 2017, available at: <https://rm.coe.int/prems-052917-gbr-1700-realising-refugees-160x240-web/1680724ba0>.

Text of Recommendation 2141(2018)

**“FAMILY REUNIFICATION OF REFUGEES AND MIGRANTS IN THE
COUNCIL OF EUROPE MEMBER STATES”**

Parliamentary Assembly

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1. Referring to its Resolution 2243 (2018), the Parliamentary Assembly emphasises the importance of protecting family life under Article 8 of the European Convention on Human Rights (ETS No. 5) and recommends that the Committee of Ministers:

1.1. develop guidelines for the application of the right to family reunification of refugees and migrants as well as for mutual legal assistance and administrative co-operation between member States and with third countries in this field;

1.2. invite member States to establish bilateral arrangements to represent each other for the purposes of collecting visa applications and issuing visas;

1.3. invite the member States that have not yet done so to join, or co-operate with, the European Union Schengen Visa Information System with a view to exchanging the data necessary for enabling more rapid family reunification;

1.4. co-operate with the International Committee of the Red Cross in promoting mechanisms and action for finding missing family members of refugees, in co-operation with national Red Cross and Red Crescent societies and national parliaments;

1.5. reinforce Council of Europe action on combating trafficking of child refugees, ensuring that unaccompanied child refugees are reunited with their parents, unless this is against the best interests of a child, for example if parents have participated in the trafficking of this child.