



## EUROPEAN WEB SITE ON INTEGRATION (EWSI)

### SPECIAL FEATURE 2012/02 FAMILY REUNIFICATION

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#### What is a Special Feature?

Special Features are designed to make the link between current news on integration and EWSI content. In doing so, they help to:

- Put what is heard in the news on integration into a wider and deeper perspective;
- Bring back balance to the often unbalanced portrayal of integration in the news;
- Guide users through the maze of EWSI content by acting as a 'content vade mecum'.

#### How was this topic chosen?

Choosing this topic was inspired by recent developments on family reunification in Member States and at EU level, including the Green Paper on the right to family reunification of third-country nationals living in the European Union (Directive 2003/86/EC).

#### Introduction – Family reunification in recent news

##### *Developments in Member States in 2011-12*

In the past year, family reunification has featured prominently in national discussions on immigration and has, on occasion, been passionately debated. Several Member States have seen or are currently witnessing changes to legislation and/or policy on family reunification, including the following:

- *Belgium.* Family reunification law was [changed in July 2011](#) to include a provision requiring the sponsor to earn the equivalent of 120% of the minimum social income (approximately 1,100€/month), and extending conditions to non-EU family members of Belgian nationals. Changes to the law were [hotly debated](#) in the Federal Parliament and are [currently being challenged by NGOs in the Constitutional Court](#).
- *Denmark.* The Danish legislation and policy for family reunification went through drastic changes in 2011-12. With the support of the far-right, [the government introduced a point-based system in July 2011](#), according to which applicant family members were assessed on the basis of work experience, language skills and completed education. Other restrictions were tightened, based on previous provisions, such as minimum age for spouses and increased minimum income requirements for the sponsor. These changes were [much criticised by civil society organisations](#). However, a new government was elected in October 2011 and quickly reformed family reunification legislation. The [new policy came into force on 15 May 2012](#). Among other things, it abolishes the points-based system, lowers age, language and income requirements, as well as removes the procedure fee which had been introduced by the previous government.
- *Finland.* Early in 2011, the Finnish Parliament [called for tighter family reunification rules](#) in order to ensure that the country does not become a 'destination of choice' for asylum-



seekers. In June 2011, the newly-elected government stated [that family reunification rules should be aligned on those of other Nordic countries and launched an inquiry to that effect](#). The report was released in April 2012 and proposed a project to evaluate the need for sponsors to meet [specific housing standards](#). The report also suggested that the existing requirement for sufficient income could be extended to family reunification cases of sponsors holding a residence permit on grounds of humanitarian protection (a specific national category of international protection that is used if the person is not eligible for refugee status or subsidiary protection). There is an on-going public consultation on these proposals until July, and a political decision on the way forward will be taken subsequently.

- *France*. In the continuation of the 2007 Law which reformed immigration procedures, the Ministry of the Interior renewed in 2011 its policy to [reduce the share of residence permits granted for family reasons](#), and introduced [new legislation to prevent fraudulent marriages](#). In January 2012, the government reaffirmed its commitment to make [family reunification conditional on minimum levels of income, housing and language](#).
- *Netherlands*. Changes to family reunification policy were key conditions to the setting up of the new government in October 2010. In fact, the government had expressed its intentions to convince other Member States to reform Directive 2003/86/EC (although [these intentions seem to have been dropped](#) together with the fall of that government in April 2012). [Changes to national policy were adopted and will come into effect in July 2012](#). They include the abolition of the admission of unmarried partners; the introduction of minimum duration of residence for the sponsor; as well as a provision extending the period after which a family member can apply for permanent residence (from three to five years).
- *United Kingdom*. In 2011, the UK (which is not bound by Directive 2003/86/EC) [launched a consultation](#) on family reunification with a view to amend policy in order to “*stop abuse, promote integration and reduce the burden on the taxpayer*”. Changes would focus on [minimum income](#) and [language requirements](#). On the basis of the consultation, the governmental advisory body recommended [an increase of between 40% and 90% of the sponsor’s minimum income](#). In late March 2012, it was revealed that the government is considering the upper end of the scale for the income requirement, as well as [increasing the sponsor’s required residency period from two to five years](#).

#### *Developments at European-level*

The think-tank European Policy Centre argues in a [2011 report](#) that the changes in Member States’ family reunification policies described above “*cannot be disconnected from the (2008) [European Pact in Immigration and Asylum](#)*”, claiming that this document clearly invited Member States who had not already implemented material conditions to family reunification to do so.

In parallel to the adoption by the Council of the above-mentioned Pact, the Commission released a [2008 report](#) on the application of the Family Reunification Directive. The report concluded that the Directive’s ‘may’ clauses (eg conditions for minimum residency period, income, housing conditions language levels, citizenship tests, etc.) “*are applied in a too broad or excessive way having the effect to restrict the given right to family reunification to an extent which runs counter the effet utile of the Directive*”<sup>1</sup>.

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<sup>1</sup> In the [Chakroun case C-578/08](#), the European Court of Justice confirmed that these clauses must be strictly interpreted based on the individual’s right to family reunification.



The Commission published a [Green Paper](#) and [opened a consultation](#) on family reunification in November 2011. The consultation [closed](#) in March 2012. Many (120) stakeholders responded, including EU Member States, national parliaments, regional authorities, European and national civil society organisations and individuals. A public hearing will be organised with civil society organisations at the [next meeting of European Integration Forum](#), on 31 May – 1 June 2012.

Following the release of the Commission's Green Paper, the National Contact Points (NCPs) of the European Migration Network (EMN) proposed [a study on the misuse of the right to the family reunification](#), in particular marriages of convenience and false declarations of parenthood. Study results will feed into the Commission's consultation.

### **What are the terms of the current debate?**

It is hard to predict the outcome of the Commission's consultation, as [Member States disagree on the opportunity to re-open negotiations on the Directive](#), the large majority being satisfied with the current rules.

Many civil society organisations at both European and national levels push for [a more rights based practice of the Directive](#), but many agree that reopening negotiations on such a sensitive topic in times of economic crisis and populist rhetoric may be [counterproductive](#). Some therefore call for [interpretative guidelines](#) to better implement current provisions or demand other structured follow-up.

These are the points that have received most focus in national debates:

- The number of people arriving in the EU through the 'family route', including the assumption that non-EU reuniting families constitute the largest type of immigration in European countries;
- The extent to which current family reunification rules open the door to fraud and abuse, forced marriages and marriages of convenience;
- The need to promote, through integration tests and measures, the socio-economic participation of incoming family members in order to help their integration and minimise the burden on the welfare state.

### *Do non-EU reuniting families constitute the largest type of immigration in European countries?*

The latest Eurostat statistics, which were included in the Green paper, show that the number of reuniting non-EU family members is not very large in comparison to the many people arriving every year. In average, non-EU reuniting families only account for 21% of all arrivals. As shown in the figure below, the highest proportion is found in Sweden and in newer countries of immigration from the Mediterranean and from Central and Eastern Europe. In five countries (Denmark, Ireland, Cyprus, Malta and Poland), the proportion of permits for non-EU family reunion is equal or lower than 5%. Only one in six permits in Belgium, France and the UK are awarded for family reasons.

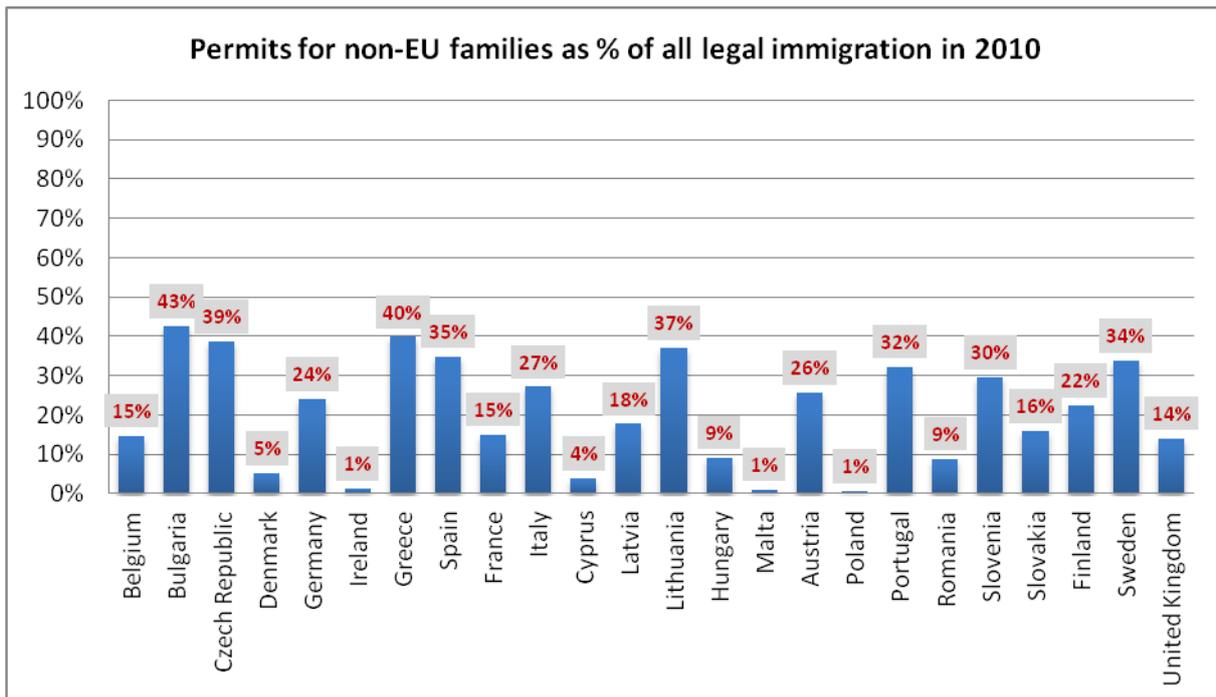


Figure 1: Permits for non-EU families as % of all legal immigration in 2010. Source: Eurostat.

#### *Do current family reunification rules open the door to fraud and abuse?*

Abuse, misuse and fraud have been the focus of much attention in the above-mentioned national debates. Specific questions were included in the Commission's Green Paper, particularly concerning the limited availability of statistics on these phenomena.

Civil society organisations have deplored the fact that, due to such attention, [the burden of proof has shifted](#) and family reunification applications seem to be considered fraudulent *a priori*. Caritas Europa, for instance, calls for "[hard facts to inform the debate](#)".

Indeed, media attention to fraud such as marriages of convenience seems to be disproportionate, given that very few studies exist on abuse of the right to family reunification. The unavailability of statistics and scarcity of informed reports on this subject has been underlined by a majority of Member States in their [responses](#) to the Commission's Green paper, as well as in several of the [national responses to the EMN study](#) on the misuse of family reunification received so far. This is confirmed by a [2010 comparative study](#) on marriages of convenience undertaken by the Norwegian migration authorities.

Nevertheless, whenever evidence and/or informal knowledge are available, two observations can be made on the basis of Member States' responses to the consultation and to the above-mentioned EMN study:

- In several countries ([Czech Republic](#), [France](#), [Hungary](#), [Slovakia](#), [Lithuania](#)), most of the fraud such as marriages of convenience concerns non-EU family members reuniting with EU nationals – a group that falls outside of the scope of Directive 2003/86/EC – although this is not the case everywhere (eg [Germany](#));
- When proven or suspected, marriages of convenience seem to be involved in only a small minority of family reunification cases. For instance, the Luxembourg EMN NCP states that "[at](#)



[the most there are 4 to 6 marriages per year that can trigger suspicions as marriages of convenience](#)". The German EMN NCP reported that [in only 1.4% of suspected marriages of convenience \(as reported by police crime statistics\) residence permits were issued to facilitate family reunification](#).

In their responses to the Commission's consultation however, some Member States (eg [Cyprus](#), [Lithuania](#)) consider that there is no evidence to link the fraud phenomenon to the current rules of the Directive; and several others consider that there is no reason to amend the Directive on these points ([Belgium](#), [Latvia](#), [Luxembourg](#), [Greece](#), [Romania](#)) although its implementation could benefit from guidelines (eg [France](#)).

*Do integration tests and measures promote the socio-economic participation of reuniting non-EU family members?*

In a [2011 briefing paper](#), the think-tank Migration Policy Group conducted a literature review finding that integration tests and measures used for family reunification purposes have yet to prove their effectiveness in terms of contributing to the socio-economic participation of reuniting non-EU family members.

Sources such as national evaluations by [Germany](#) and [the Netherlands](#), as well as two independent European research projects ([INTEC](#) and [PROSINT](#)) claim that:

- Pre-entry language tests and requirements "*have only marginal effects on language learning*". Language courses in many third countries are often hardly available, inaccessible as well as expensive. However, when reuniting family members attend pre-entry language courses, the knowledge they acquire is not sustainable. While courses helped people in gaining self-confidence, social contacts and a more realistic appreciation of their future life abroad, many applicants forgot the little they learned between the course and the moment when they finally settled in the destination country.
- Similarly, pre-entry integration conditions and measures have had "*little-to-no effect on immigrants' position in the labour market*". For instance, the Dutch national evaluation noted that while the income requirement raised labour market participation for some newcomers, this was mostly before and during the application process; after families were reunited, labour market participation returned to lower levels. One suggestion put forward to explain this phenomenon is that people who are committed to reunite with their family would often do whatever is necessary to meet the income requirement, and therefore find short-term employment temporarily.

### **Facilitating the family reunification process**

The European Web Site on Integration features interesting initiatives in ensuring that the process of reuniting families is as smooth as possible. In addition to the numerous projects which provide support to migrant families (such as the [POMP project](#) in Slovenia), the EWSI provides examples of good practice that are specifically designed to facilitate the process of family reunification itself, before and after the arrival of reuniting family members.

For instance, the municipality of Barcelona has a [special programme](#) through which it provides assistance to the family sponsor, offering advice on the application process and ensuring that the



sponsor meets requirements such as housing. This stage is also used for assessing the needs of arriving family members, for example for language courses or labour market orientation. Finally, upon arrival, the family benefits from personalised orientation and support activities for children and younger members of the family.

In Finland, the [Vertaiskoto project](#) cooperates with NGOs and municipalities in empowering family sponsors by training them as 'integration agents' so that they are ready to help reunite family members in their everyday lives when they later arrive in the country.

Another interesting initiative is that [taken recently by the municipality of Växjö](#) (Sweden), which is expected to receive around 700 Somalis reuniting family members under international protection rules. In order to better prepare their reception and ensure that municipal services are ready to respond to their needs, the municipality sent staff in Somali refugee camps in Kenya for field interviews.

## Conclusion

Family reunification has been hotly debated across Europe during the past year, and legislative and policy developments at national and EU levels have fed into each other. The Commission's consultation on Directive 2003/86/EC may therefore lead to a turning point in the coming year for the right to family reunification, how this right is regulated at EU level and how these regulations are implemented in Member States.

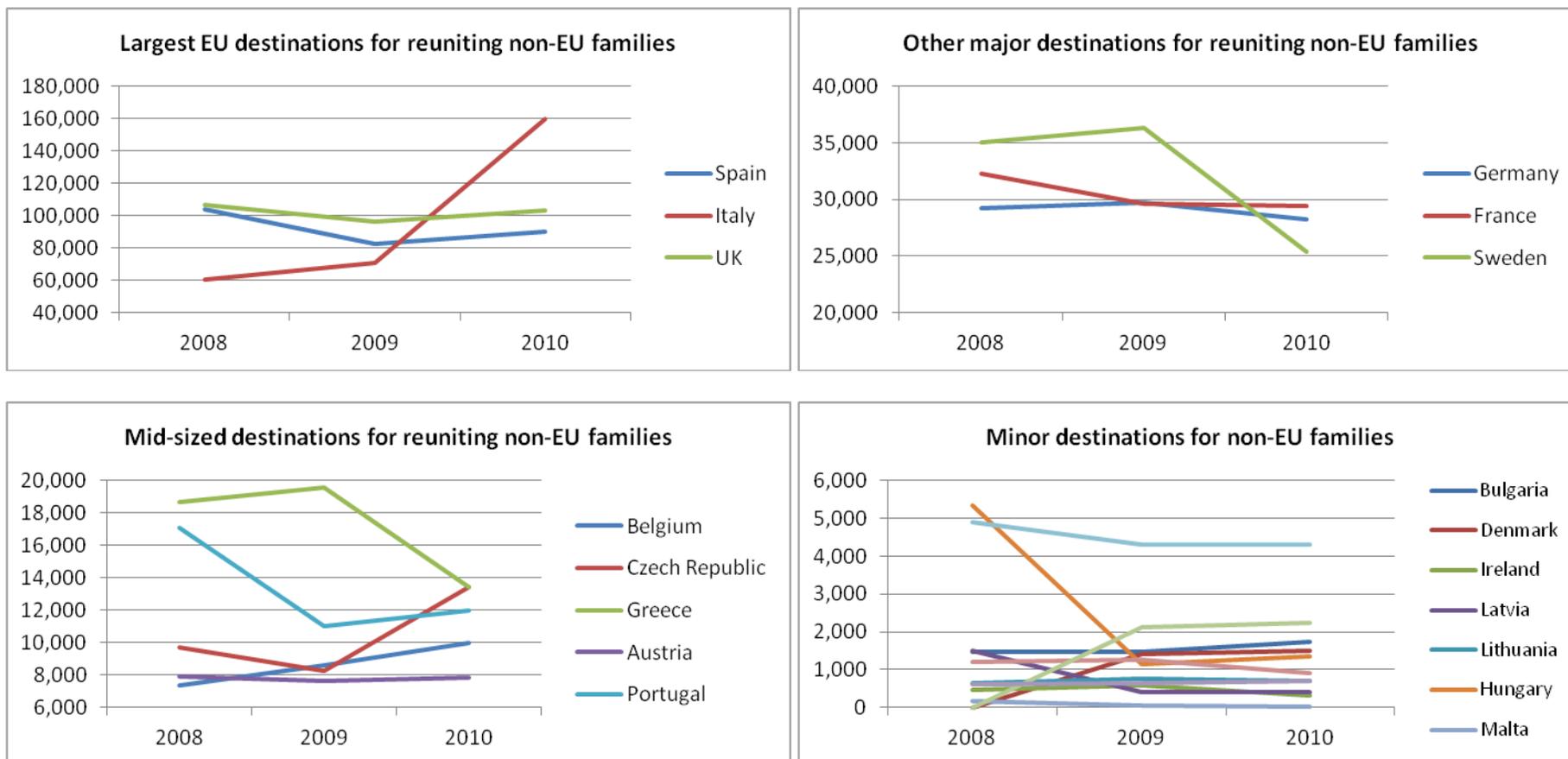
However, regardless of the debate on a stricter or more generous approach to family reunification, all stakeholders – governments (at all levels), NGOs, families – have an interest in ensuring that the process of reuniting families is as smooth as possible when the right to family reunification is exercised.



## ANNEX – EUROSTAT STATISTICS ON FAMILY REUNIFICATION

The statistics below have been collected from Eurostat, compiled by the think-tank Migration Policy Group and published in 2011 in [MPG Briefings for the Green Paper on Family Reunion](#).

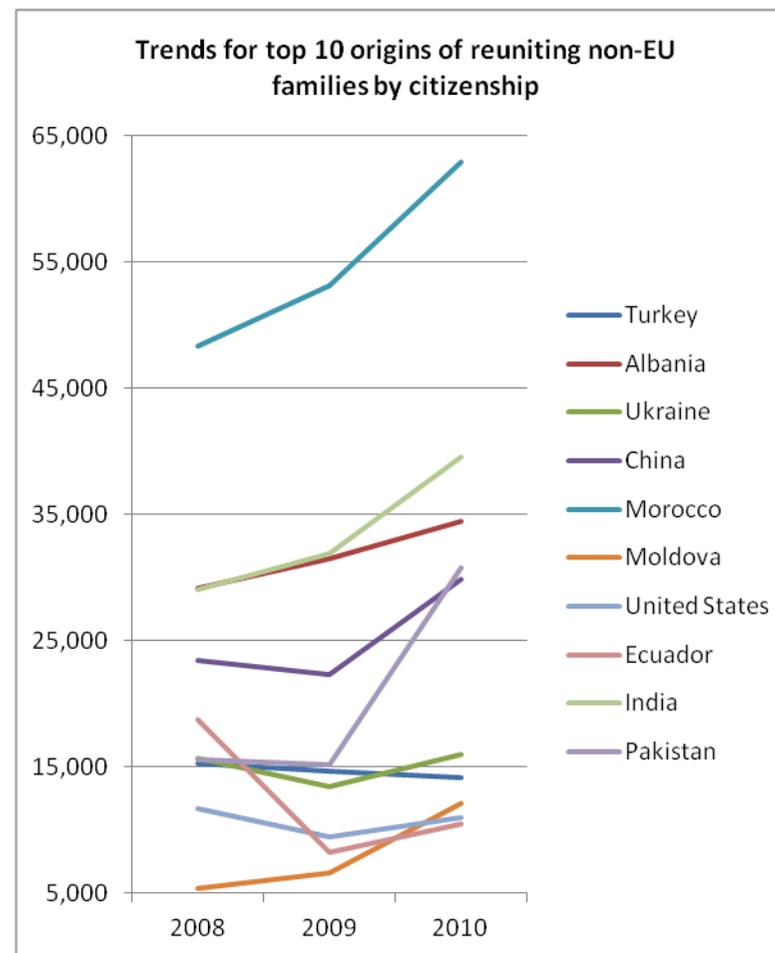
### 1. EU destinations for reuniting non-EU families





## 2. Origin countries of reuniting non-EU families

Destination country	1 <sup>st</sup> country of origin	2 <sup>nd</sup> country of origin	3 <sup>rd</sup> country of origin
<i>Belgium</i>	Morocco 16%	Turkey 6%	Russia 5%
<i>Bulgaria</i>	Turkey 28%	Russia 25%	Ukraine 9%
<i>Czech Republic</i>	Ukraine 35%	Vietnam 20%	Russia 16%
<i>Denmark</i>	Thailand 12%	Turkey 10%	Philippines 6%
<i>Germany</i>	Turkey 17%	Iraq 8%	Kosovo 8%
<i>Ireland</i>	Somalia 18%	Iraq 16%	Nigeria/ Sudan 6%
<i>Greece</i>	Albania 84%	India 3%	Syria 2%
<i>Spain</i>	Morocco 36%	Pakistan 10%	China 10%
<i>France</i>	Algeria 18%	Morocco 17%	Tunisia 8%
<i>Italy</i>	Morocco 14%	Albania 14%	China 7%
<i>Cyprus</i>	Russia 21%	Syria 11%	Ukraine 7%
<i>Latvia</i>	Russia 62%	Ukraine 11%	Belarus 7%
<i>Lithuania</i>	Russia 38%	Belarus 25%	Ukraine 12%
<i>Hungary</i>	China 24%	USA 14%	Ukraine 8%
<i>Malta</i>	India 17%	Nigeria/ Russia/ Turkey 13%	
<i>Austria</i>	Turkey 26%	Serbia 21%	Bosnia 11%
<i>Poland</i>	Ukraine 30%	Vietnam 17%	Russia 10%
<i>Portugal</i>	Brazil 41%	Ukraine 11%	Cape Verde 11%
<i>Romania</i>	China 27%	Turkey 23%	USA 5%
<i>Slovenia</i>	Bosnia 46%	Kosovo 28%	Former Yugoslavia 12%
<i>Slovakia</i>	S. Korea 23%	Ukraine 17%	China 12%
<i>Finland</i>	Russia 26%	Somalia 10%	India 9%
<i>Sweden</i>	Iraq 17%	Thailand 10%	Somalia 6%
<i>United Kingdom</i>	India 25%	Pakistan 11%	USA 6%





### 3. Composition of reuniting non-EU families

