



POLICY BRIEF

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Family migration in Europe: policies vs. reality

By *Albert Kraler*,
ICMPD,
Albert.Kraler@icmpd.org
and *Eleonore Kofman*,
Middlesex University,
e.kofman@mdx.ac.uk

Summary Family-related migration has become one of the main, if not – as in some countries – virtually the only legal means for people to gain admission. Yet, current political and public debates increasingly see the ‘migrant family’ as an obstacle to integration, as a site characterised by patriarchal relationships, illiberal practices and traditions such as arranged and forced marriages. As a result, family-related modes of migration are more and more becoming subject to restrictions.

**Tensions exist
between family
migration policies
and reality**

This policy brief draws on findings from the comparative research project ‘Civic Stratification, Gender and Family Migration Policies in Europe’, which took place between July 2006 and September 2008. Conducted in Austria, the Czech Republic, Denmark, France, Germany, Italy, the Netherlands, Spain and the United Kingdom, the study investigated family migration policies from two perspectives: a top-down approach examining the regulation of family migration; and a bottom-up approach, focusing on the experiences of migrants and others involved in family migration. This brief addresses fundamental tensions between these two dimensions. It maintains that the assumptions underlying state policies as well as public debates on family-related migration do not do justice to the reality – much less, the complexity – of family migration. Little attention is paid to the consequences policies have on the persons affected by them. Nor is enough made of whether policies and measures actually attain their objectives. Furthermore, current policy regulations seem to discriminate against third-country nationals and female immigrants.

**Current policies do
not do justice to
the complexity of
family migration**

**Current policies
discriminate
against vulnerable
groups**

As such, this brief recommends the following:

- **family migration policies should be based on evidence.**
- **policies should subsequently be evaluated in a systematic way.**
- **to ensure equal access to rights, due account should be taken of family migrants and their sponsors’ social positioning.**
- **the system of legal statuses should shun legal insecurity and avoid locking certain persons into precarious positions.**
- **family migration policies should recognise gender inequalities, especially with regard to resource requirements.**

**Policies should be
based on evidence**

**Policies should
account for social
inequalities**

Family-related migration: a main channel for long-term immigration

A major admission channel Throughout much of Europe, family-related forms of migration gained importance in the wake of the 1973 oil crisis, when recruitment was brought to a halt and increased restrictions were placed on labour migration. Ever since, family-related migration has become one of the main admission channels for long-term immigration. According to statistics collected by the OECD, family-related admissions currently account for 40 to 60 per cent of all permanent immigrants in Austria, France and the Netherlands. The share of family-related migration is lower in countries with considerable immigration from within the European Union and/or substantial labour migration. In the former, family-related migration is often still one of the most important admission channels for third-country nationals. For example, in Austria, different forms of family-related admissions account for roughly 70 per cent of admissions of third-country nationals. If only long-term immigration is considered, the share of family-related admission is almost 90 per cent. Southern European countries record a much lower share of family-related migrants, though their numbers also conceal considerable *de facto* family reunification – a reflection of the many irregular migrants and migrants in precarious situations who are not formally eligible for family reunification. And yet, in these countries' family-related admissions are increasing. In Italy, only 14.2 per cent of all permits issued in 1992 were for family reunification, though by 2000, the share of family admissions had increased to 24.9 per cent and, by 2007, to 31.6 per cent. Similarly, Spain's family-related admissions have been on the rise, surging from 16.7 per cent in 2003 to 39 per cent in 2007.

Three types:
 - family reunification
 - family migration
 - family formation

Types of family migration Three basic types of family-related migration can be defined: (1) family reunification involving family members separated by migration; (2) whole family migration in which different members of the family (nuclear or otherwise) migrate jointly; (3) family formation, including marriage migration, in which a migrant joins a settled migrant or non-migrant to form a family – usually though not necessarily through marriage. These distinctions reflect different empirical patterns, on the one hand. On the other, they yield various legal implications for family reunification eligibility and the conditions attached to family reunification. In practice, however, the boundaries that distinguish these different types of family migration are considerably blurred.

Consider how the boundaries between family reunification and family formation, for example, can become vague. Let's say a Turkish man migrates to Austria in 1989. He maintains close ties with Turkey, regularly visiting his home region on extended holidays. During one of those visits in 1995, he marries a woman from the local community. They have a traditional wedding ceremony in Turkey. In 1997, the man takes her to Austria for a civil marriage, expecting that the ceremony will reduce the bureaucratic requirements he anticipates being requisite for reunification with his wife. In 1998, he submits an application for family reunification. After waiting two years for a positive

decision – admission being subject to a quota of the maximum number of persons allowed to immigrate annually for family-related reasons – the man finally reunites with his wife. By now it is 2000, five years after the couple's first marriage. This hypothetical scenario illustrates how different notions of family migration overlap. At face value, this case involves the reunification of a family separated by migration; but in another sense, it is better conceptualised as a case of deferred family formation. The legal framework in place is perhaps one of the most important factors shaping the way that family migration is ultimately realised. In the above example, for instance, an important fact is that Austria does not permit reunification for fiancées and thus requires couples to be married before migration. Other factors, including migrants' own strategies and considerations, are nonetheless also important.

Family formation has overtaken classic forms of family reunification

The rise in family formation In general, family-related admission is limited to nuclear family members: spouses, dependent children below a certain age (usually eighteen) and, more and more, partners in registered partnerships. Several countries also allow reunification with parents in certain cases, for example, if the parent is over age 65 and/or dependent (financially or otherwise) on the sponsor. Some countries, such as the UK, also permit reunification with other family members based on similar criteria of dependency. In quantitative terms, reunion with a spouse or partner by far exceeds reunification with children. Family formation has overtaken classic forms of family reunification involving the reunification of families separated by migration. This has been especially apparent in countries with a longer history of immigration and large settled immigrant communities. In the Netherlands (one of the few countries that categorically distinguishes family formation from other types of family-related migration), family formation rose from 39 per cent in 1995 to 60 per cent in 2003 (though it subsequently dropped because of restrictions on marriage migration).

Transnational and bi-national marriages on the rise

The rise in family formation indicates two notable trends. It shows an increase in binational marriages: unions between citizens of a native background with spouses of foreign nationality. And it points to an increase in transnational marriages: unions between ethnic minority members who are born in the country of residence and marriage migrants who are from another country of origin. The growth of transnational marriages reflects long-standing transnational ties that connect migrants and their descendants to their homelands and diasporas elsewhere. The rise of binational marriages reflects broader processes that are part of globalisation. One such example is the growing number of regions being incorporated into the global marriage market, thanks in part to long-distance tourism and opportunities for marriage-related mobility through online dating and professional dating agencies. An expanding marriage market is also the by-product of greater global mobility among specific categories of migrants, notably students and

the highly skilled who follow education and career trajectories world-wide.

Family migration is seen as an obstacle to integration

‘Problematic’ aspects Recent debates in Northern European states have highlighted three so-called ‘problematic’ aspects of family-related migration and the migrant family: (1) the unsolicited nature of family migration, its alleged abuse as a migration channel and associated debates on ‘bogus marriages’; (2) the migrant family as a potential obstacle to integration, linked closely to concerns about transnational marriages, marriage migration and the subsequent tendency of integration programmes and pre-entry tests to focus on family-related migration; (3) the migrant family as a patriarchal institution, which is seen as a contradiction to liberal democratic norms of gender equality and which is allegedly prone to forms of gender-based violence (e.g. forced and arranged marriages, domestic violence, honour killings).

More restrictions

The rising number of family migrants and the wider problematisation of the migrant family have led to a series of restrictions in almost all the countries investigated by the project. As a result, admission on grounds of family migration has declined in countries such as Austria, France, Germany and the Netherlands. Meanwhile, Denmark’s migrants admitted for family reasons have long represented one of the lowest numbers of all the countries under study. Over a decade’s time, the share of permits issued for family reunion decreased from 27 per cent in 1996 to 9 per cent in 2006.

Europe’s family migration policy framework Contemporary migration management largely operates by allocating differential rights to different categories of migrants through various mechanisms. The framework is operationalised through classification and selection processes, admission procedures, conditionalities and restrictions; they work along various axes, notably along nationality, skill level, socio-economic status and gender.

Policies abide by narrow understanding of the family

Family migration policies typically observe a very narrow understanding of the family, involving dependent children, spouses and, in some cases, registered partners. Parents are rarely eligible for family reunification, nor are other family members. In addition, states tie family reunification rights to a series of conditions. The most important are income requirements and related expectations that migrants will not have recourse to public funds, will find adequate housing and, more and more commonly, can meet integration requirements such as knowledge of the local language. As such, family migration policies are socially selective, particularly excluding more vulnerable groups from the right to family reunion. Who exactly is eligible for family-related admission and under what conditions, however, varies greatly according to the legal status of the sponsor. Much depends on whether the sponsor is a short-term migrant, a permanent migrant, a citizen of the country, a citizen from another EU member state or a citizen who has acquired EU mobility rights by residing in another EU member state

Policies are socially selective

for some time.

An important feature of family migration policies is the notion of dependency. That the eligibility of family members is constructed around this notion reaffirms an understanding of the family as predominantly belonging to the reproductive realm. The scope of rights enjoyed by the joining family member as well as the right to stay are also contingent on the sponsor. In some cases, dependency is literally enforced by barring spouses from access to the labour market.

Policymaking at the EU level is important

Policymaking at the EU level has been important for policy development overall. Yet, its effects on family-related migration have been contradictory. The family reunification directive, contrary to original intentions, has initiated a race to the bottom. A number of countries have downgraded their regulations to the minimum standards defined by the directive and its many derogation clauses. They have also added new conditions, such as integration requirements and pre-entry tests. By contrast, family members of EU citizens who are residents of a member state other than their own are granted extensive rights to family reunion with significantly fewer conditions. Still, even this scenario similarly follows a narrow concept of the family.

Gap between third-country nationals and EU nationals grows

As a result, there is a growing gap between the right to family reunion for family members of third-country nationals and those of EU nationals. In many countries, citizens may enjoy superior rights to third-country nationals when it comes to family reunion. Increasingly, however, citizens with family members from non-EU countries have fewer rights than citizens who have made use of mobility rights or other EU migrants and their family members. This ironic situation has given rise to what has been termed ‘reverse discrimination’. However, perhaps more important than the legal impact of European family migration policymaking (the European Commission’s own evaluation of the family reunification directive’s implementation suggests it failed to reach its objective for greater harmonisation) has been the Europeanisation of debates on family-related migration. As a result, different national debates on family-related migration have converged around issues of forced and arranged marriages, marriages of convenience and the migrant family as an ‘integration problem’. This, in turn, has led to a number of countries adopting a variety of measures that implicitly or explicitly targets family members, such as upping the age minimum of spouses, mandatory integration courses and preadmission integration tests.

What is the reality of family migration?

The reality of family life Analysing the experiences of persons affected by family migration policies reveals that many assumptions underlying state policies as well as public debates do not do justice to the complex reality of family migration. The actual diversity of family forms is not only poorly captured by immigration law’s definitions of the family, but the legal framework has massive effects on different

Social positioning and cultural capital affect how migrants cope with legislation and constraints

individuals. As this project's results show, how persons are able to cope with the constraints imposed on them by the immigration legislation framework depends on various circumstances. Major factors include their wider social positioning, access to social capital (e.g. family and other social networks such as NGOs and friends) and cultural capital (e.g. knowing the local language and being sufficiently literate to deal with application procedures and bureaucracies). Thus, the conditions attached to family reunion, such as income requirements and overcoming bureaucratic obstacles, render the realisation of family reunion difficult for many. The effects, however, are distributed unevenly. What's more, the consequences of conditions are highly gendered. In all countries covered by the study, it was often more difficult for women to attain the income criteria than for men. This was particularly apparent in case of women who have childcare responsibilities.

Legislation reinforces the position of individuals on social, economic and legal margins

Other issues create additional pressures on migrant families, often complicating how they fit – or do not fit – within the legal framework. Challenges include access to employment and labour market positions, the experience of deskilling (particularly affecting female spouses), finding work-life balance, childcare and access to education. All these factors influencing the reality – rather than the policy-perceived reality – of migrants' lives are mutually reinforcing. For example, Southern Europe's predominance of informal work opportunities, which are primarily open to (or at least taken by) women, largely rules out the prospect of formal family reunification since formal employment contracts are requisite for using the family route. Family reunion is thus rarely even an option. When it is, those joining the primary migrant do so at the cost of illegality, thus potentially reinforcing the position of individuals on the margins, socially, economically and legally.

Family migration policies increase inequality and deny equal access to rights

Policy recommendations This project's findings suggest that many assumptions upon which family migration policies and broader public debates are constructed fail to account for the reality of migrant family lives and its related forms of migration. At the same time, little attention is paid to what consequences the policies have on those affected, or whether policies and policy measures actually reach their objectives. The concrete ways family migration policies actually work tend to increase inequality, if not altogether deny equal access to rights.

Policymaking must be evidence-based

This policy brief therefore makes the following recommendations:

- **improve policymaking** by basing policies and policy development on firm evidence.
- **systematically evaluate policies** in terms of their objectives and what consequences they have on those affected by them.
- **ensure equal access to rights** by taking due account of individuals' different social positioning, particularly when creating conditions for the admission of family members. For example, not only should income thresholds be set at reasonable levels,

Take account of individuals' social positioning

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- Promote a fair and flexible system of legal statuses**
- but the definition of income should be broad enough to capture the diverse sources of subsistence faced by real families.
 - **avoid legal insecurity by designing a** system of legal statuses that duly considers family members' personal circumstances and permits a relatively easy way to switch statuses. Such a system should avoid locking certain persons into inferior and/or precarious positions. These positions are known to occur, for example, when a family member's status is not renewed after the first permit expires or when an application for permit switching is subjected to the same requirements as a first permit application (much like the requirements for residence application from abroad).
- Consider implications for women**
- **recognise gender inequalities** by systematically considering how resources and resource requirements have different implications for men and women.
- Cut bureaucracy**
- **reduce bureaucratic requirements.** Excessive, overly strict document requirements (e.g. the limited validity of legalised documents and excessive fees) should be eliminated. The basic principle of applying for residence from abroad should be waived for persons who are already resident in the country and whose entry would anyway be granted if applying from abroad.
- Give attention to third-country nationals**
- **address the growing gap of rights held between** EU nationals, citizens and third-country nationals who are unprotected by freedom of movement rules.

References This policy brief is based on the final report of the research project 'Civic Stratification, Gender, and Family Migration Policies'. Funded under the NODE Research Programme of the Austrian Ministry of Sciences, it was conducted between July 2006 and September 2008. The analysis focused on how family migration policies position migrants within a general system of stratified rights. It investigated the rationale of policies in the context of broader public debates on family-related migration. The project also investigated experiences of family migration through qualitative interviews and focus-group discussions with migrants and other persons involved in family migration as well as expert interviews with NGOs. A total of 110 migrant interviews and focus-group interviews were carried out in six countries. More information on the research project, including project-related publications, can be found at <http://research.icmpd.org/1291.html>.

Final Report: *Albert Kraler (2009): Civic Stratification, Gender, and Family Migration Policies in Europe. Final Report. Vienna: BMWF/ICMPD*

Albert Kraler is a researcher at the International Centre for Migration Policy Development (ICMPD) in Vienna. Eleonore Kofman is Professor of Gender, Migration and Citizenship at the Social Policy Research Centre at Middlesex University in London.

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