

Written evidence submitted by the Families Together Coalition (ISSB12)

Written evidence to the public bill committee of the Immigration and Social Security Co-ordination (EU Withdrawal) Bill 2017-19

1. About the Families Together Coalition

1.1. Families Together is a coalition of organisations that support the expansion of the UK's refugee family reunion rules.¹ We include many organisations that provide frontline services for refugees and support an expansion of refugee family reunion based on their experiences of the current rules.

2. Executive summary

2.1. Refugees in the UK often find themselves separated from their families following brutal experiences of conflict and persecution.

2.2. Under current refugee family reunion rules, adult refugees can sponsor their spouse and any children under 18 to come join them in the UK. The rules do not allow separated refugee children to sponsor any family members.

2.3. Being reunited with family members can be a life changing moment, bringing together loved ones who had been torn apart by war and violence. However, far from being a comprehensive framework, the existing restrictive rules about who is eligible to be reunited prevents families from being together just when they need each other the most.

2.4. While refugee family reunion provides a safe and legal route for people to come to the UK, the current restrictive rules risk driving people to undertake dangerous journeys, putting their lives in the hands of people smugglers, so that they can be with their relatives.

2.5. Refugee family reunion is vital in supporting refugees to integrate, providing them with support structures and alleviating concerns about the welfare of loved ones.

2.6. The Families Together Coalition believes that the Immigration and Social Security Co-ordination (EU Withdrawal) Bill is an opportunity to expand the current refugee family reunion rules and allow more families to be safely reunited in the UK.

2.7. Families Together is calling for MPs to support an amendment that would expand the UK's refugee family reunion rules, allowing adult refugees to sponsor their adult children and siblings that are under the age of 25; and their parents. The amendment would also allow child refugees to sponsor their parents and siblings aged up to 25.

¹ Members of the coalition are All African Women's Network, Amnesty International UK, Asylum Matters, British Red Cross, Care4Calais, CARE International UK, The Children's Society, City of Sanctuary, Every Child Protected Against Trafficking (ECPAT UK), Greater Manchester Immigration Aid Unit (GMIAU), Helen Bamber Foundation, Help Refugees, Jewish Council for Racial Equality (JCORE), Lewisham Refugee and Migrant Network (LRMN), Migrants Resource Centre, Oxfam UK, Refugee Action, Refugee Council, Refugee Rights Europe, Safe Passage, Scottish Refugee Council, Solidarity with Refugees, SOS Children's Villages UK, STAR (Student Action for Refugees), The Tavistock and Portman NHS Foundation Trust, UNHCR, Welsh Refugee Council, Young Roots.

Proposed amendment

Clause 4, page 3, line 7, at end insert –

() No regulations under subsection (1) may be made before the rules laid down by the Secretary of State under section 3(2) of the Immigration Act 1971 are extended to allow refugees to sponsor:

(a) children under the age of 25, who were either under the age of 18 or unmarried at the time the person granted asylum left the country of their habitual residence in order to seek asylum;

(b) parents;

(c) siblings under the age of 25, who were either under the age of 18 or unmarried at the time the person granted asylum left the country of their habitual residence in order to seek asylum;

to join them in the UK.

3. About refugee family reunion

3.1. The UK has committed to “ensure that family unity can be maintained” and eligibility for refugee family reunion is set out in the UK’s immigration rules.

3.2. Under these rules, adult refugees in the UK can be joined via family reunion by their spouse/partner and their dependent children who are under the age of 18.²

3.3. This means that those family members who have become separated but are not covered by the rules are left with the invidious choice of staying put in insecure and dangerous places or embarking on treacherous, expensive, unregulated journeys.

3.4. The restrictions mean, for example, that parents are not automatically able to bring their child who has turned 18, even if that child is still dependent on them and has not married or formed their own family. While the family reunion guidance does allow cases not covered by the rules to be granted in exceptional circumstances, in reality this rarely happens.

3.5. In 2017, only 81 applications for refugee family reunion were made “outside the rules”, and the Home Office has not been able to provide information on how many of those applications were subsequently granted.³

3.6. Home Office entry clearance officers may also decide to grant leave outside the rules on the condition that the family member has no recourse to public funds, including no access to most benefits or free hospital treatment in most of the UK. This places the reunited family in an incredibly difficult situation, creating barriers to the successful integration of the family.

3.7. The Families Together Coalition recommends that parents should be able to sponsor their dependent children over the age of 18, without needing to rely on Home Office decision makers.

4. Separated refugee children in the UK

4.1. Unlike adult refugees, children who are in the UK alone and who are recognised as refugees have no right to be reunited with even their closest family members. Because of this rule, children living in safety in the UK must live without their family in perpetuity.

² The eligibility for refugee family reunion is set out in Part 11 of the Immigration Rules.

³ For example, see the answer to parliamentary question 185008 <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2018-10-29/185008/>

4.2. On this issue, the Home Affairs Select Committee has said: ‘It seems to us perverse that children who have been granted refugee status in the UK are not then allowed to bring their close family to join them in the same way as an adult would be able to do. The right to live safely with family should apply to child refugees just as it does to adults.’⁴

4.3. These children have been through the UK asylum process and been found to be in need of protection as refugees – the UK government has determined that it is not safe for them to return home. However, the current refugee family rules then deny these children the ability to be joined by their closest relatives.

4.4. The government argues that granting refugee children the right to sponsor family members to come to the UK will lead to more children making dangerous journeys, being sent to the UK by their families overseas.⁵ However, there is no body of evidence to support the claim that this happens.

4.5. Conversely, we know that because of this restriction, children undertake dangerous journeys in order to be with their siblings. Our organisations are aware of many cases of children travelling to join siblings in the UK, putting themselves at risk because there is no safe and legal route to reunion under the current rules.

4.6. In addition, in every other EU country, refugee children can sponsor close relatives to join them. Therefore, extending this right in the UK would simply bring us in line with neighbouring countries.

4.7. The government’s argument around ‘pull factors’ was addressed last year by Lord Kerr in a debate on the issue: ‘Is it really plausible that, say in Idlib, if it is under siege in six weeks’ time, the family sits around the dining table, pick a child and tell it that it must set off across the battle lines and the Mediterranean, to try to get into England so that it can then pull the family into England? That is implausible. We are talking about refugee reunion and about children. We really must stop talking about this wildly implausible pull factor. They come here to escape being killed; they do not come here in order to become a magnet for the rest of the family.’⁶

4.8. Allowing refugee children to sponsor their immediate families would reduce the number of people making irregular journeys to reach the UK and would be a straightforward change which would have a transformational impact on the lives of a small number of child refugees.

4.9. The Families Together Coalition recommends that separated refugee children in the UK are granted the right to sponsor their parents and siblings to join them.

5. Making refugee family reunion applications

5.1. For those refugees who do qualify for family reunion, the process is long and complicated.

5.2. A report by British Red Cross, ‘Not So Straightforward’⁷, sets out the many bureaucratic and practical barriers faced by families. Complexities include cases requiring DNA tests or those involving adoption and de facto adoption.

5.3. Such cases require legal advice in determining the eligibility of applications, support in gathering documentation, and reference to precedent and existing policy and guidance.

5.4. Since 2012, refugee family reunion cases have not been eligible for legal aid.

5.5. Refugees must navigate complex legal processes and immigration rules whilst enduring prolonged separation from their families and the many harms which this can cause; including isolation, emotional distress and lack of confidence, as well as practical barriers to integration.

5.6. In the government’s response to the consultation on changes that removed refugee family reunion from the scope of legal aid provision the Ministry of Justice stated that ‘applications to join family members are treated as

⁴ House of Commons Home Affairs Committee, ‘The Work of the Immigration Directorates (Q1 2016)’, Sixth Report of Session 2016-17.

⁵ See paragraph 10.21 of the immigration white paper.

⁶ 6 HL Deb 11 May 2018, Volume 791 c372 <https://goo.gl/i9rdNU>

⁷ British Red Cross, ‘Not So Straightforward: the need for qualified legal support in refugee family reunion’.

immigration cases, and are generally straightforward because they follow a grant of asylum'.⁸ In the experience of many families seeking to reunite, the process is anything but straightforward.

5.7. Following the publication of its Post-Implementation Review of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO), the government have chosen to keep refugee family reunion outside the scope of legal aid provision.

5.8. This bill does not cover provisions on legal aid. However, Families Together believes that refugee family reunion should be brought within the scope of legal aid, to ensure that refugees are properly supported to be reunited with their loved ones.

6. Family reunion under the Dublin III regulation

6.1. Refugee family reunion is a discrete and entirely separate process to the Dublin III regulation.

6.2. Refugee family reunion allows refugees present in the UK to be joined by their family members. When family members come to the UK, they are given the same immigration status as the person they are joining.

6.3. The Dublin III Regulation is a piece of European Union legislation that is used to determine which member state is responsible for deciding a specific individual's asylum application.

6.4. One of the criteria for deciding which Member State is responsible is whether the applicant has family members in a different Member State to the one in which they have made their asylum application.

6.5. After the UK leaves the European Union, it is expected that the UK will no longer be part of the Dublin system.⁹

6.6. In the immigration white paper, the government committed to seeking to negotiate an agreement with the EU that allows separated children who have applied for asylum in the EU to be reunited with family members in the UK.

6.7. However, there is no commitment to retain the ability for adults in the EU who have applied for asylum to be reunited with family members in the UK.

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⁸ Ministry of Justice, 'Reform of Legal Aid in England and Wales: the Government Response', June 2011.

⁹ If there is a transitioned exit from the European Union, the UK will remain part of the Dublin system until the end of the transition.