



# Family reunification of third-country nationals in Spain



GOBIERNO DE ESPAÑA

MINISTERIO DE ASUNTOS EXTERIORES Y DE COOPERACIÓN

MINISTERIO DE JUSTICIA

MINISTERIO DEL INTERIOR

MINISTERIO DE EMPLEO Y SEGURIDAD SOCIAL

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Its objective is to meet the information needs of EU institutions and of Member States' authorities and institutions by providing up-to-date, objective, reliable and comparable information on migration and asylum, with a view to supporting policymaking in the European Union in these areas. The EMN also serves to provide the general public with such information.

To that end, the EMN has a network of National Contact Points (NCPs).

The Spanish NCP is composed by experts from the Ministry of Employment and Social Security, Ministry of the Interior, Ministry of Foreign Affairs and Cooperation, and Ministry of Justice and the General Prosecutor's Office. It is coordinated by the Deputy General Directorate for Legal Affairs of the General Secretariat for Immigration and Emigration.

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## EMN FOCUSSED STUDY 2016

### Family reunification of third-country nationals in the EU: National Practices.

#### Top-Line “Factsheet”

The purpose of this study is to provide an in-depth view of family reunification in Spain when the sponsor is a third-country national. Reunification of European Union citizens or of nationals falls outside the main scope of this study, without prejudice to the inclusion of a specific question on this matter.

Through a total of six sections and a statistical annex, the study constitutes a tool for understanding the quantitative and qualitative importance of family reunification in Spain, and it highlights the many challenges that arise in relation this issue.

Section 1 provides an overview of family reunification in Spain and highlights the regulatory changes that have occurred since 2011 in this area.

Section 2 focuses on the detailed study of the sponsor and the definition of family members.

Section 3 lists the requirements laid down in Spanish legislation for family reunification of foreign nationals who are already residents.

Section 4 describes the administrative procedure for making a decision on an application for family reunification, paying particular attention to the way in which the requirements are checked (these are listed in section 3).

Section 5 analyses the rights that reunited family members enjoy in Spain. The principle of equal treatment that exists in Spain provides the basis for the catalogue of rights that reunited family members enjoy.

Section 6 analyses the impact that European and national jurisprudence has had on family reunification practice.

Finally, the statistical annex offers a set of data on family reunification in Spain.

Traditionally, family reunification in Spain has been considered a special form of immigration on account of its particular characteristics, in contrast with labour-related flows (main entry channel to Spain). However, in recent years, family reunification has become an increasingly intense phenomenon and is now one of the main causes of migratory flows.

According to the statistics on foreign nationals with a valid registration certificate or residence card, family reunification accounted for 28.1 % of the 359 959 valid

temporary residence permits in Spain on 30 June 2016, making it the second largest group after permits for residency and paid employment, which represented 48.2 %.

With regard to the reason that justified the granting of first-time permits (Eurostat), in 2015, 102 454 permits were granted for family reasons, accounting for 53.11 % of permits granted<sup>1</sup>.

As a result, family reunification in Spain has changed from being a mere consequence of labour migration to being a substantive channel, one of the major sources of new immigrant arrivals.

The interest in and importance of studying this specific entry channel is a result of its strong increase and the implications that it has in various areas, particularly integration, education and employment.

With regard to current legislation on family reunification, current immigration legislation addresses this concept based on the content of Directive 2003/86/EC. Accordingly, in general terms, a foreign national who has resided in Spain for one year has the right to reunite with the members of his/her family. In order to do so, he/she must have sufficient financial resources and suitable accommodation. In Spain, the requirements do not include integration measures.

Reuniting the nuclear family (spouse and minor children) is simpler than reuniting ascendants.

In comparison to labour migration, family reunification creates the need for striking a balance between adequate management of migratory flows and the need to uphold other principles, such as the family unit and the minor's best interests. Measures such as analysing applications individually and the possibility of reducing the required income in the case of the reunification of minors achieve this aim. Furthermore, the latter addresses challenges such as partial reunifications of minors (which have negative effects on their integration).

In addition, under the general system, there are groups such as researchers or Blue Card holders who benefit from a more favourable system, and they are not required to have resided in the country for one year before applying for reunification. This is also the case for the categories covered by the International Mobility Section of Law 14/2013 of 27 September on support for entrepreneurs and their internationalisation. The facilitation measures for family reunification are also an incentive to attract skilled migration. Together with the abolition of prior residence periods, enabling the employer, or organisation which the foreign skilled worker will join, to submit the application is another facilitation measure that exists in Spain to attract talent.

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<sup>1</sup> This figure does not necessarily refer to entry flows, as the foreign national could have already been in the national territory. It also includes foreign nationals' children born in Spain.

International students may also reunite the members of their nuclear family, although they are not given access to the labour market.

As a result of the increasing importance of family reunification, integration policy in Spain is currently focused on, as a priority, the integration of migrants' children, given that a large proportion of the growth in the immigrant population in Spain occurs through the family reunification channel. This phenomenon poses new challenges which must be met properly. Entering the system late or half-way through the school year or gaps in past learning are elements which may lead to failure at school.

With regard to the issues that are addressed in this study concerning asylum seekers and applicants for international protection, it should be pointed out that the recent rise in applications for international protection has created a need for adapting national asylum structures and will lead to an increase in family reunification by this group.

Finally, there are also a number of challenges in administrative practice when decisions are to be made on family reunification applications. Marriages of convenience, the fight against documentary forgery or the reduction in Social Security contributions once family members have been reunited are the main challenges that have been identified. Cooperation between the different public authorities has become key in tackling them.

It is clear that, today, Spain is in a migration phase which States with a longer tradition of immigration have already been through and in which family reunification is becoming more important. This new phase poses specific challenges, which demand a proper response. Therefore, there is a need for gradually adapting integration policy in order to pay special attention to reunited children and promote education and improving their employability.

This adaptation has already begun. In fact, the study identifies a set of good practices to improve access to education and employment: extra-curricular educational programmes to promote language knowledge and overcome the difficulties related to late entry into the education system; special agreements reached in Ceuta and Melilla to prevent school failure and dropout and to reintegrate dropouts into the education system or into vocational training; coexistence plans in each education centre; the FRIDA programme to combat xenophobia in the classroom; and the active employment policies to improve employees' employability.

These actions needed to be furthered, in order to prevent any disruptions to coexistence and capitalise on the advantages of migration for the economy and the cohesion of our society.

## Section 1: Overview of the situation on family reunification

***Q1. Please briefly describe the basis for developing legislation/ policy on family reunification in your (Member) State.***

Closely connected to the right to family life and family privacy, Organic Law 4/2000 of 11 January on the rights and freedoms of foreign nationals in Spain and their social integration (hereinafter, Organic Law 4/2000) regulates family reunification as a right for foreign residents in Spain (Article 16 of Organic Law 4/2000).

Spanish legislation in the field of family reunification is based on Directive 2003/86/EC of the Council of 22 September 2003 on the right to family reunification.

Specifically, the content of this Directive was transposed into Spanish law through Organic Law 4/2000, and its implementing regulation, approved by Royal Decree 557/2011 of 20 April (rules which constitute the **General System** for immigration).

However, there are other special rules which regulate family reunification in other immigration systems:

- **International Protection:** Law 12/2009 of 30 October, governing the right to asylum and subsidiary protection.
- **EU Citizens:** Royal Decree 240/2007, of 16 February, on the entry, free movement and residence in Spain of citizens of the Member States of the European Union and of other States party to the agreement on the European Economic Area, regulates family reunification for both EU citizens and Spanish citizens. These two matters **are not included in the main analysis in this study.**
- **International mobility:** Law 14/2013 of 27 September on support for entrepreneurs and their internationalisation.

***Q2. Please provide an overview of recent (since 2011) changes to law, policy and/ or practice in the field of family reunification in your (Member) State.***

In recent years, the main changes in the field of migration have occurred in the **international mobility system** through the adoption of Law 14/2013.

The primary basis which led to the adoption of this Law was, essentially, the need to internationalise the economy, promote the presence of foreign companies, to attract foreign talent and investment to Spain, and to eliminate barriers to foreign entrepreneurship and to investment in business ventures that could create jobs.

For that purpose, a new scheme was established to regulate visas and residence permits for:

- Investors
- Entrepreneurs

- Highly skilled professionals
- Researchers and university professors
- Intra-corporate transfers.

Among the elements to facilitate talent attraction, investment and foreign entrepreneurship, **the Law provides for a special family reunification system.**

As the OECD study *Recruiting Immigrant Workers, Europe 2016* indicates, third-country nationals are more likely to be married and much more likely to have children living with them who, therefore, accompany them when they move. Thus, family is a key element when making the decision to move to another country, and it must, therefore, be facilitated in cases in which the family members depend economically on the holder of the permit or visa.

Without prejudice to the more detailed description of this family reunification system provided in the various questions that make up the study, some of its main features should be highlighted at this point.

- \* Law 14/2013 makes it possible for family members of foreign nationals who are going to come to Spain to make a joint and simultaneous (or successive) application for a residence permit or, if applicable, a visa, thereby eliminating the requirement for the sponsor to have resided previously in the country.
- \* With regard to the definition of a family member, reunification was initially permitted for the spouse and children under 18 or of legal age who were not objectively capable of meeting their own needs for health reasons.

The recommendations contained in the First Evaluation Report on the implementation of section 2 of Title V of Law 14/2013 (adopted by the Council of Ministers on 10 April 2015) stressed, with regard to the family reunification system, that it would be advisable to broaden the notion of a family member in order to bring it into line with other migratory systems and administrative practice, so as to *“facilitate the family reunification of children or ascendants who depend economically on the holder of the permit or visa”*.

This modification was introduced through the reform that the General Courts implemented on the international mobility section through Law 25/2015, of 28 July, on the second-chance mechanism, reduction of the financial burden and other social measures.

**Law 25/2015 broadened the concept of family members to include:**

- Unmarried partner: although de facto equal treatment was being granted previously, it was expressly included in the Law.
- Dependent ascendants.
- Dependent children over the age of 18.

- \* Moreover, the permit granted to reunited family members results in access to the labour market. This is of great importance in the case of [...].

Together with the noted change to family reunification in 2013 for beneficiaries of the international mobility section and its amendment in July 2015, no significant changes have occurred in policies or Spanish legislation on family reunification. Moreover, the temporary political situation of the Spanish Government in recent months caused a decline in legislative activity.

Nevertheless, there is awareness of the importance of family reunification, taking into consideration that it is becoming one of the main entry channels to Spain for foreign nationals (previously, it was seen as a secondary means of entry, linked to labour migration). This shift in the concept of family reunification and its greater importance, both in quantitative and qualitative terms, is suggesting that adjustments are necessary, among other aspects, in integration policies, especially in the case of second generations and the 1.5 generation, and it has an impact in the area of employment and education.

- **Current public debate on family reunification in Spain (e.g. on requirements for exercising the right to family reunification or other issues).**

There is no major public debate on the issue.

Nevertheless, the Ombudsman has issued specific recommendations to the public authorities with the aim of adapting certain family reunification practices:

- He has asked that instructions be drawn up in order to enable parents of minors born in Spain to renew the residence permit obtained due to family ties, even if they do not have an employment contract.
- This same problem has been raised with regard to parents of minors who suffer from a sudden illness and do not have sufficient economic means to obtain a residence permit.
- “Recommendations” have been made to the General Secretariat for Immigration and Emigration for Instructions to be given to eliminate the requirements for financial resources and health insurance, both for spouses and ascendants of Spanish nationals.

- **Whether family reunification is a national policy priority currently.**

Reforms in family reunification policy are not a policy priority currently, without prejudice to the importance of this issue.

- **Any planned changes to law, policy and/ or practice on family reunification.**

No changes to Spanish legislation on family reunification have been considered, mainly due to the interim government that has been in place in Spain since late 2015 (this point has been referred to previously). The new term is still in its early stages.

- **Any changes to policy and/or practice as a result of the Commission Communication COM(2014)2010's guidance for application of Directive 2003/86/EC? If no, please specify why not.**

All the Immigration Offices, as the competent bodies for processing resident permits for family reunification, have been informed that they should consider the possibility of reducing the sponsor's financial resources when they are going to reunite foreign minors, by carrying out an individual study of each application submitted.

- **If your (Member) State has introduced a private sponsorship programme, which requires the beneficiary to be a family member of the sponsor. If yes, briefly elaborate in what ways the requirements, eligibility and access to rights differ.**

At present, no private sponsorship programmes have been put into place in Spain.

**3.a. Please complete the Excel document in Annex 1 below (including data, as well as metadata) if you have national statistics on:**

- ***The total number of applications for family reunification in 2011-2015 and, where available, the first half of 2016, disaggregated by the ground of residence of the sponsor (beneficiaries of international protection (i.e. refugees, BSPs, UAMs), persons admitted for remunerated activities, persons admitted for study purposes, etc.) and sex;***
- ***The total number of accepted/ rejected applications for family reunification in 2011-2015, and where available, the first half of 2016, if available disaggregated by the grounds for rejection of applications.***

In Annex 1. Statistical Annex, which is included at the end of this study, four Tables are inserted with data on the number of applications for residence permits for family reunification and accepted applications between 2011 and the first half of 2016. Information is also provided by gender and applicant category.

A table is also attached with the number of Asylum and Subsidiary Protection statuses that were granted from 2011 to 2015, according to gender.

The aforementioned data is discussed in the following section.

***b. Please supplement the data provided above with a narrative on the profiles of TCNs residing in your (Member) State and asking for family reunification, i.e. are the sponsors mostly beneficiaries of international protection and/ or other TCNs, e.g. workers, students, etc.?***

The data provided in the Statistical Annex makes it clear that the number of residence permits for family reunification exceeds, significantly, both the number of asylum and subsidiary protection statuses granted.

The numbers of foreign nationals arriving in Spain for family reunification are substantial. Although the data on family reunification applications by beneficiaries of asylum or subsidiary protection are not yet available, it is clear that this second group's right to reunite their family members may be exercised by a much lower number of people than those submitted by resident foreign nationals.

As shown in the Tables, in 2015, 26 740 first-time residence permits for family reunification were granted. In that year, a total of 218 asylum statuses were granted, while 802 people were given subsidiary protection.

The pattern over time illustrated by Table 3 shows that the figure for international protection is higher than for asylum.

Furthermore, Table 4 provides information on the family member whose reunification is requested. Most of the applications are made to reunite the spouse and children, in this order. These applications account for the majority of the total. The number of family reunification applications for a dependent ascendant are around 15 times lower than applications for spouses, and in the last two years accepted applications represent less than 50 % of the applications made for these family members. However, the percentage of accepted applications for spouses or minor children exceeds 70 % and 75 %, respectively.

## **Section 2: Definition of sponsor and family members**

### ***Q4.a. Who can be a sponsor to an application for family reunification in your (Member) State?***

This study focuses on family reunification by third-country nationals. Therefore, the requirements that third-country nationals have to meet in order to reunite their family members are analysed below.

#### **- General System**

The right to family reunification in Spain may be exercised by any foreign national who **has resided legally in Spain for at least one year and has obtained a permit to reside for, at least, one more year.** There are a number of exceptions to this rule.

Firstly, if the sponsor would like to reunite their ascendants, they must have acquired long-term residence. Therefore, the minimum residence period is increased.

Secondly, when the sponsor is a foreign researcher or a highly skilled worker holding an EU Blue Card, the 1-year wait period is not applicable and an application for family reunification may be made **simultaneously**.

Finally, in the case of international students, the student is not required to have completed a prior period of stay either.

- **International mobility system**

The holders of the following types of visas or residence permits may exercise the right to family reunification immediately:

- Investors
- Entrepreneurs
- Highly skilled professionals
- Researchers
- Employees on an intra-corporate transfer

**Q4.b) Does the national law of your (Member) State allow beneficiaries of subsidiary protection (BSPs) to apply for family reunification?**

Yes. Both refugees and beneficiaries of international protection can request:

- The extension of the status for family members of the same nationality
- Family reunification for family members of the same or a different nationality.

**Q5. Does your (Member) State extend the scope of family reunification beyond nuclear/ core members of the family, i.e. parents, adult children, non-married partners, etc.?**

The **spouse** (provided that the marriage has not been entered into in evasion of the law) and **minor children**, both those of the permit holder and their spouse (nuclear family) may also be reunited.

In addition, in Spain the right to family reunification is also recognised for the extended family under certain circumstances and conditions, as is shown in the table below:

Family member	General System	International mobility	International protection
<b>Ascendants</b>	<i>General rule (including researchers under Organic Law 4/2000 and holders of a Blue Card):</i> yes, when <ul style="list-style-type: none"> <li>- they are first-degree ascendants (of the sponsor and their spouse)</li> <li>- they are dependent</li> <li>- they are over 65</li> <li>- and there are reasons that justify</li> </ul>	Yes, the Law refers to "dependent ascendants".	Yes, first-degree dependent ascendants.

	<p>it. Exceptionally, when there are humanitarian grounds, an ascendant under the age of sixty-five may be reunited.</p> <p><i>International students:</i> they cannot reunite their ascendants.</p>		
<b>Children of legal age</b>	<p><i>General rule (including researchers under Organic Law 4/2000 and holders of a Blue Card):</i> yes, when, because of a disability they are not objectively capable of providing for their own needs due to their state of health.</p> <p><i>International students:</i> yes, in the same cases as in the general rule.</p>	Yes, when they depend economically on the holder and have not formed a family unit themselves.	
<b>Same-sex spouse</b>	Yes, with no differences between migratory categories.	Yes	Yes
<b>Same-sex partners who are registered</b>	Yes, with no differences between migratory categories.	Yes	Yes
<b>Non-married partners</b>	Yes, the <b>non-married partner</b> is equated to the married partner provided that the relationships has been duly accredited. No differences are made between migratory categories.	Yes	Yes
<b>Dependent persons</b>	<i>General rule (including researchers under</i>		

	<p><u>Organic Law 4/2000 and holders of a Blue Card</u>): Persons who are legally represented by the sponsor, are under the age of 18, or persons over the age of 18 who are not objectively capable of meeting their own needs due to their state of health.</p> <p><u>International students</u>: no.</p>		
<b>Others</b>			<ul style="list-style-type: none"> <li>- Another adult that is responsible for the beneficiary of international protection, if he/she is a non-married minor.</li> <li>- Other family members may exceptionally obtain asylum or subsidiary protection through family extension provided that it has been sufficiently established that they depend on the beneficiary and that they lived together previously in the country of origin.</li> </ul>
<b>Polygamous marriage</b>	<p>Reunification of more than one spouse is not permitted under any circumstances, even if the law in the alien's country of origin allows this form of marriage.</p> <p>Likewise, foreign residents shall not be reunited with more than one person with whom they have a sentimental relationship analogous to marriage, even when the law in the alien's country of origin allows this form of family tie.</p> <p>Furthermore, the situations of marriages and analogous relationships are deemed mutually incompatible.</p>		

### Section 3: Requirements for exercising the right to family reunification

**Q6. Does your (Member) State (plan to) impose the following requirements for exercising the right to family reunification? (please also indicate if exemptions can be made in individual cases based on e.g. hardship clauses):**

➤ **Accommodation suitable for the size of the family, as well as meeting health and safety standards.**

- **General system**

The sponsor must provide evidence that they have suitable accommodation to meet their own and their family's needs. To prove that they have suitable accommodation they have to submit a report from the Autonomous Community in which they reside.

This requirement must also be met when applying for a renewal.

In the case of international students: this is not a requirement.

- **International mobility system**

Not expressly required. In general terms, they must have sufficient financial resources for themselves and the members of their family for the period of residence in Spain.

- **International protection**

Not expressly required.

➤ **Health insurance**

- **General system**

**They must have healthcare as part of their Social Security cover** or have private health insurance.

- **International mobility system**

**They must have healthcare as part of their Social Security cover** or have private health insurance.

- **International protection**

Refugees and beneficiaries of subsidiary protection do not need to demonstrate that they have health insurance in order to reunite their family members.

➤ **Sufficient financial resources to provide for the sponsor and his/her family.**

- **General system**

A foreign national who applies for a residence permit for the reunification of a family member must demonstrate that they have sufficient financial resources to meet their own and their family's needs.

This amount depends on the number of members that they would like to reunite and on the number of dependent family members who already live with the applicant in Spain. To calculate the amount, the Public Income Index (IPREM), which is used as a reference for the allocation of income-dependent support or benefits, is taken into account.

The minimum amounts are:

- For **family units** which include two members (sponsor and reunited family member) there is a requirement for a monthly amount of 150 % of the IPREM, which amounts to EUR 799.
- For **each additional member**, a further 50 % of the IPREM is required, that is EUR 266 would be added.

In exceptional circumstances, when a minor would be reunited, the amount required is reduced always on the basis of the principle of the minor's best interests.

To calculate financial resources, income received from the social assistance system is not taken into account. The income that the spouse or partner of the foreign sponsor contributes is taken into account, as well as income from any other direct first-degree family member, who lives in Spain with the sponsor.

The applicant may provide any documentation that provides evidence of the financial resources, for example:

- Copy of employment contract.
- Personal Income Tax Declaration.
- Evidence of the activity performed, if they are a self-employed worker.
- Certified cheques, traveller's cheques, receipts or credit cards accompanied by a bank certificate confirming the amount available in credit on the card in question.

- **International mobility system**

They are required to have sufficient economic resources for themselves and the members of their family for the period of residence in Spain.

- **International protection**

Refugees and beneficiaries of subsidiary protection do not need to provide evidence of financial resources in order to reunite their family members.

***Q7.a. Does the national law of your (Member) State require TCNs to comply with any integration measures before and/ or after admission?***

Obtaining a permit for family reunification is not contingent upon compliance with any integration measures. Organic Law 4/2000 refers to a duty of the public authorities to promote the participation of reunited family members in sociocultural and linguistic integration programmes.

***Q7. b. Please specify if any negative consequences (e.g. refusal to issue a permit or withdrawal of the existing permit) are foreseen for family members not complying with the above-mentioned integration measures – both according to law, as well as how this is applied in practice.***

No, in Spain compliance with integration measures is not a requirement for obtaining or maintaining a residence permit for family reunification.

***Q8. Does your (Member) State set a waiting period before a sponsor's family members can reunite with him/ her?***

Yes, as stated in question 4.a) of this study, Spanish legislation requires, generally, that the sponsor has resided previously in Spain before applying for reunification.

There are exceptions, however, to this period, as will be expanded upon later in the study.

***How long is the waiting period? Can an application be submitted before the period has expired? Are there any exemptions granted in individual cases?***

***- General system***

In order for a foreign national resident in Spain to apply to reunite their family members, he/she must have resided for at least one year and must have applied for a renewal to reside for at least one more year.

However, the duration of the waiting period increases when the sponsor wishes to reunite ascendants or the ascendants of his/her spouse or un-married partner. In this case, the sponsor must hold a long-term residence permit or long-term EU residence permit granted in Spain.

The foreign nationals listed below do not have to demonstrate that they have resided previously in Spain in order to reunite their family members:

- Residents in Spain based on their prior status as long-term EU residents in another European Union Member State.

- EU Blue Card holders.
- Beneficiaries under the special system for researchers.
- International students.

- ***International mobility system***

Beneficiaries of the international mobility scheme may apply for their family members to be reunited at the same time or at a later date without having to provide evidence of prior residence in the country.

- ***International protection***

Beneficiaries of international protection do not need to comply with the requirement for a minimum residence period in Spain in order to apply for the reunification of their family members.

***Q9. Does the national law of your (Member) State provide for a rejection of an application for entry and residence of family members on grounds of public policy, public security or public health?***

Yes. Spanish law requires the fulfilment of a series of requirements related to security or public health, in order to obtain a reunification permit. A failure to meet these requirements would result in the application being rejected.

- ***General system***

In order to be reunited the foreign national must provide evidence of the following:

- **That they are not on Spanish territory illegally.**
- **That they have no criminal record in Spain** or in the countries in which they previously resided for crimes that exist under Spanish law.
- **That they are not prohibited from entering Spain** and are not listed as someone to be rejected from the territory of countries with which Spain has signed an agreement in this respect.
- That they do not have any **illnesses** which could have serious repercussions on public health, in compliance with the 2005 International Health Regulations.

- ***International mobility system***

In order to be reunited the foreign national must provide evidence of the following:

- **That they are not on Spanish territory illegally.**
- **That they have no criminal record in Spain** or in the countries in which they previously resided for crimes that exist under Spanish law.
- **That they are not prohibited from entering Spain** and are not listed as someone to be rejected from the territory of countries with which Spain has signed an agreement in this respect.

- ***International protection***

**Family reunification will not be granted to** persons who:

- a) have committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes, or incite the commission of those crimes.
- b) have committed a serious crime, which is understood to mean those considered as such under the Spanish Penal Code and which affect the life, freedom, sexual integrity or freedom, the integrity or property of individuals, provided that they were committed with force towards things, or violence or intimidation against another person, as well as in cases of organised crime, a term which must be understood to include, in all cases, the crime included in [...];
- c) to have been guilty of acts contrary to the purposes and principles of the United Nations as set out in the Preamble and Articles 1 and 2 of the Charter of the United Nations.

***If yes, please provide data (if available) on the number of times your (Member) State has invoked this provision(s) since 2011.***

The following table shows the number of applications for residence permits for family reunification that were rejected on various grounds related to public security, in 2015 and 2016 (until 30 September).

<b>GROUND FOR REJECTION</b>	<b>2015</b>	<b>2016 (30-09)</b>
False documentation	1	4
The subject of expulsion proceedings	1	
Unfavourable police report	20	99
Criminal record in Spain	5	6
Prohibited from entering Spain	3	2
Visa refused	14	11

***Q10.a. In addition to any information you have already provided above, does your (Member) State apply the following provisions concerning the more favourable family reunification rules for refugees:***

***- Application and possible extension of the grace period of (minimum) three months before the requirements for exercising the right to family reunification apply?***

At the moment, no grace period is provided; rather, it is applied at any time to people who have been granted the right to asylum or subsidiary protection.

***- Restriction to relationships established before entry into the (Member) State?***

No.

**- Application of a wider definition of family members (going beyond parents) when it comes to UAMs?**

Yes.

Beneficiaries of international protection may reunite another adult who is responsible for the beneficiary of international protection, provided that the beneficiary is a non-married minor.

Family reunification may also be granted to other members of the family of the refugee or subsidiary protection beneficiary, provided that they are dependant and they lived together in the country of origin.

**- Have any of these family reunification rules for refugees been changed recently?**

No.

***Q10.b. If applicable, does your (Member) State apply similar rules for the family reunification of BSPs as refugees, i.e. in relation to eligible family members, waiting period and requirements for family reunification?***

Yes. In Spain the rules for refugees and beneficiaries of subsidiary protection are applied in the same way.

***Q11. Are there any differences in the requirements to be met for exercising the right to family reunification (under Directive 2003/86/EC or national law in some cases) in comparison to a similar request governed by national law by a (Member) State national who has not exercised his/ her free movement rights (non-mobile EU nationals)? Overall, to what extent are these requirements for exercising the right to family reunification under national law more or less favourable than those covered by Directive 2003/86/EC?***

In Spain the rules for family reunification by Spanish citizens who have not exercised the right to free movement are the same as those applied to nationals of a Member State of the European Union who have exercised the right to free movement. These rules are contained in Royal Decree 240/2007, of 16 February, on the entry, free movement and residence in Spain of citizens of the Member States of the European Union and of other States party to the agreement on the European Economic Area.

However, the rules on family reunification which are applied to third-country nationals are contained, as was stated at the beginning of this study, in Organic Law 4/2000, and its implementing regulation, approved by Royal Decree 557/2011 of 20 April. These rules transpose Directive 2003/86/EC into Spanish law.

A table is inserted below, which makes a distinction between the requirements for obtaining a residence permit for family reunification under the:

- **General System:** applies to non-European Union third-country nationals.
- **EU Citizens System:** applies to citizens of the Member States of the European Union and of the European Economic Area who move to Spain, as well as to family members of Spanish nationals.

Requirements for family reunification	GENERAL SYSTEM	EU CITIZENS SYSTEM
Financial resources	Yes, EUR 9 588 for 2 people	Yes, individual analysis. As guidance EUR 8 779.82 for 2 people
Suitable housing	Yes	No
Prior period of residence	Yes	No
Healthcare	Yes	Unemployed

Together with the different requirements for family reunification under both systems, there are also differences in the way family members are defined.

Under the **General system**, ascendants who are going to be reunited must be over 65 years of age and must demonstrate the need for residence in Spain to be authorised. It is not necessary to comply with the above when humanitarian grounds are demonstrated.

Under the **EU citizens system**, family members other than those covered in Directive 2003/86/EC (extended family) may be reunited. These family members must depend on the sponsor in the country of origin or provide evidence of serious health or disability grounds.

Therefore, it may be stated that the requirements that a citizen who has not exercised the right to free movement must meet in order to reunite his/her family members are more favourable than those laid down in Directive 2003/86/EC, as:

- They do not have to provide evidence that they have suitable housing.
- They can reunite their ascendants even if they have not reached the age of 65 and without having to provide evidence of the need to authorise their residence in Spain.
- Family members not included in Directive 2003/86/EC may be reunited.

**Q12. a. Please indicate any challenges experienced by i) sponsors and/ or family members associated with accessing the right to family reunification, and/ or ii) your**

***(Member) State in the implementation of any of the above requirements for family reunification (e.g. based on existing studies/ evaluations/ other sources or information received from relevant authorities and stakeholders) and how these can be overcome.***

In the field of family reunification a series of challenges experienced by sponsors and by those responsible for processing and making decisions on applications has been identified; these challenges are outlined below.

- The greatest challenge in family reunification is how to strike a balance between protection of privacy, the family, and the minor's development, and orderly migration management.

In turn, other challenges arise from the need to balance both interests:

- The requirement that the sponsor resided in the country previously has the counter-productive effect that the minors remain in their country of origin separated from their parents, and that they are reunited when they are older, which could hinder their subsequent integration. Despite this, the requirement for this prior period emerges as a necessary measures to control migratory flows.
- The partial reunification of minors is also a challenge at present. The requirement for additional financial resources for each family member who wishes to be reunited, in addition to the lack of an obligation to declare, at first, the total number of members in the family unit means that, in certain cases, the sponsor reunites his/her children according to the financial resources available and, therefore, in a progressive or gradual manner. Partial reunification of minors could affect the family structure and hinder, similarly to the previous challenge, subsequent integration in the host society.

With regard to the processing of files, those responsible for processing have pinpointed the following main challenges:

- The difficulty in identifying marriages of convenience, except in very special cases.
- Tackling fraud in proof of income, especially salaries. Despite these challenges, improvements in the exchange of information among authorities is an example of good practice in identifying this type of fraud.
- Tackling other types of fraud, such as the type that occurs when, once the residence permit has been obtained for a family member, the sponsor deregisters from the Social Security system or significantly reduces his/her contributions.

***b. Please provide any examples of proven (e.g. through studies/ evaluations) good practices that might help to overcome the above-mentioned challenges or otherwise. Please specify the source .***

In order to remedy the problems raised, different practices are carried out in the Immigration Offices, including:

- A reduction in the amount of financial resources required to reunite minors is accepted, thereby facilitating reunification of the family unit. This measure is provided for under immigration law and requires each case to be studied individually.
- Applicants' registration with the Social Security is monitored for a period of time of approximately one year, with the aim of preventing fraud.
- The requirement for suitable accommodation must also be met when applying for a renewal. This measure prevents a single dwelling being used to reunite different families.
- When a marriage of convenience is suspected, the applicants are given separate appointments for interviews. This measure may provide evidence of fraud.

***Q13. Is any research (conducted by relevant authorities, academics, NGOs etc.) on the following available in your (Member) State:***

– ***Effects of the requirements for family reunification on the right to family reunification and integration of TCNs***

Yes. According to the [Report on the state of the integration of immigrants and refugees in Spain 2015](#), approved by the Forum for the Social Integration of Immigrants, the late entry of minors into the education system as a result of the wait period, which is required for their parents to apply for reunification, has a negative impact on their academic results and social integration.

– ***Effects of the integration measures as applied in Spain on the right to family reunification and integration of TCNs***

No integration measures are applied in advance.

– ***Effects of the minimum age requirement as applied Spain on the prevention of forced marriages or any misuse of family reunification (e.g. marriages of convenience)***

Spanish law does not allow minors under the age of 16 to marry. Accordingly, no applications for family reunification for spouses under the age of 16 are accepted. In addition to having reached the age of 16, they must be emancipated under the law in their country of origin.

Furthermore, the content of the 2012 EMN study "[Misuses of the right to family reunification: marriages of convenience and false declarations of parenthood](#)" continues to apply to these two main channels of misuse of the right to family reunification. Part of its content is reproduced below.

### *Marriages of convenience*

With regard to marriages of convenience, the Directorate-General for Registries and Notaries issued an Instruction to establish a double control over these marriages.

On the one hand, a prevention control, in the civil system, for the purpose of avoiding false marriages being conducted.

And on the other hand, in order to avoid Civil Registry entries that do not correspond to reality. The Public Prosecutor's Office is involved in the files processed prior to such marriages by the Officer in charge of the Registry.

In respect to the scope of the Civil Registry, both in scenarios when the marriage has been registered or when the fraudulent nature of the marriage is detected at a later date, the registry entries are cancelled (Articles 95.2 of the Civil Registry Act and 163 and 164 of the Civil Registry Regulation). Action must be taken in coordination with the Public Prosecutor's Office to request that the marriage be considered null and void.

From the perspective of criminal law, entering into marriage on false pretences in Spain does not constitute a criminal offence, i.e. whenever the pretence is accepted by both spouses. A false marriage would only be reviewed by criminal courts, if the pretence is linked to another act deemed to be an offence, basically any of the following:

- Offence of facilitation of illegal immigration (Article 318 bis Criminal Code).
- Offence of documentary forgery: if the marriage took place in a fraudulent manner using forged documents included in the marriage dossier, then an offence of falsification of official documents may be deemed to have occurred, which is punished with the penalty of six months to three years' imprisonment and a fine.

In the administrative field, a marriage of convenience constitutes grounds for refusal of the application for residence or of the visa for family reunification. Furthermore, Organic Law 4/2000 (Article 53.2.b) classifies "*solemnising matrimony, simulating an analogous affective relationship (...) when such a conduct is carried out for the purpose of material profit or in order to irregularly obtain residence rights, provided such acts do not constitute a criminal offence*" as a serious offence. The penalty provided for this type of offence is a fine ranging from EUR 501 to 10 000 (Article 55.1.b).

It should be noted that the Central Register of Foreign Nationals has an alert system, which makes it possible to discover if more than one residence application has been submitted per person, thus constituting a means of detecting and avoiding reunification of several spouses (or polygamy).

In that connection, when an application for family reunification is made in Consular Offices abroad, which issues visas for family reunification, they can check the documents issued in the country of origin.

#### *False declarations of parenthood*

Discovery of this type of fraud results in the refusal of the visa or residence application for reunification. Furthermore, Article 53.2.b) of Organic Law 4/2000 classifies "*purporting oneself to be the legal representative of a minor, when such a conduct is carried out for the purpose of material profit or in order to irregularly obtain residence rights, provided such actions do not constitute a criminal offence*" as a serious offence (punishable by a fine ranging from EUR 501 to 10 000).

## **Section 4: Submission and examination of the application for family reunification**

***Q14. Please describe the procedure(s) that apply to the sponsor or his/ her family members when an application for entry and residence for the purpose of family reunification is submitted, as follows:***

***a. Who is the formal party to an application for family reunification in your (Member) State: the sponsor or his/ her family members?***

The basis for the formal entitlement to submit an application for family reunification in Spain is described below.

#### **- *General system***

As a general rule, the application for family reunification in Spain must be submitted by the sponsor himself in person at the Immigration Office in his/her place of residence.

However, there are a number of variations to this general rule in the following categories of migrants.

When the sponsor holds a permit under the special system for researchers, the application for the family members may be submitted either by the foreign researcher (sponsor) or by the research body in which the researcher will carry out their research.

If the sponsor is the holder of an EU Blue Card, the application for the family members may be submitted either by the EU Blue Card holder (sponsor) or by the highly skilled worker's employer.

In the case of international students, the family members submit the application for family reunification.

It should also be pointed out that the family members themselves may submit the application when family members of foreign nationals who have had long-term EU resident status in another European Union Member State would like to be reunited. In this case, they must provide proof that they lived with their family member in the first Member State.

- ***International mobility system***

In the case of foreign nationals to whom Law 14/2013 applies, several scenarios can be distinguished:

- In the case of **investors** and **entrepreneurs**: the foreign national with the right to do so submits the application for family reunification, if it is submitted together with his/her own application. If it is submitted at a later date, the family member concerned may make the application. In the case of minors, either of the parents may submit the application, although it is preferable for the right holder to do so.
- With regard to permits for **highly-skilled workers, researchers** or **intra-corporate transfers**: the company or institution that requires the services of the foreign national submits the application, if a joint application is made. If an application is made at a later date, the company or the concerned family member may submit the application directly. Either parent may submit the application for minors.

- ***International protection***

The right holder (sponsor) submits the application in person at the Asylum and Refugee Office.

***b. If the sponsor's family members must submit an application for family reunification, where can this application be submitted (e.g. consulate of the (Member) State abroad, possibility to submit the application in the (Member) State, etc.)?***

With regard to the place of submission of applications, the following should be noted.

- ***General system***

As has been stated in the previous section, the application for family reunification in Spain must be submitted, as a general rule, by the sponsor himself in person at the Immigration Office in his/her place of residence.

If the research organisation or employer makes the (joint application) for family reunification of the family members of a researcher or of a Blue Card Holder, the application is also submitted at the relevant immigration office.

In contrast, in cases under the General Immigration System in which it is possible for **the family members themselves to submit the family reunification application**, submission takes place in the following places:

- family reunification of international students: at the relevant Spanish consular office.
- reunification of family members of a foreign national holding a long-term EU resident permit issued by another EU Member State: at the relevant Spanish consular office which acts as a registration office (in these cases, the application is forwarded to the immigration office in the province in which the long-term EU resident resides or is going to reside) or at the immigration office (when the application is submitted after the family member entered the country, in which case a maximum period of three months is allowed).

In addition to the foregoing and in cases in which the sponsor (or the employee/research organisation) submits the reunification application, and the family members are not in the country, Spanish law establishes a second step which directly concerns the family members. Accordingly, once a residence permit application for family reunification has been accepted, the family member has two months to apply in person for a family reunification visa. He/she has to apply for this visa at the relevant Consulate depending on the area in which he/she resides. To that end, he/she must submit:

- passport,
- clear criminal record certificate,
- documentation providing evidence of family ties, and
- a medical certificate to prove that he/she does not suffer from an illness which could have repercussions on public health.

This visa is not required for family members of a foreign national holding a long-term EU residence permit issued by another EU Member State.

- ***International mobility system***

In the case of foreign nationals to whom Law 14/2013 applies, if the family reunification application is not processed together with the right holder's application, the family member can submit it directly, except in the case of minors or disabled persons.

In these cases, Spanish law allows the application to be submitted at the Large Companies and Strategic Groups Unit (if the person is in Spain legally), or at the relevant consular office, if they are outside Spain.

- ***International protection***

The family member must appear in person with their documentation at the relevant Spanish Consulate.

***c. What documentary evidence is required from the applicant to confirm i) his/ her identity and ii) the family relationship?***

***- General System***

To provide documentary evidence of identity, the following documents must be submitted:

- A copy of the sponsor's full passport, travel document or valid registration card.
- A copy of the family member's full and valid passport or travel document.

To provide documentary evidence of the family relationship, Spanish law requires documentary evidence of the family ties or parenthood or of the existence of a common-law relationship and, if applicable, of legal or financial dependence.

Depending on the family member concerned, the following documentation must be submitted.

- Spouse or un-married partner: a marriage certificate or a certificate of a registered partnership or any other document accepted by law providing evidence of a prior relationship. Documents issued by a public authority are preferable.

When an application is made to reunite the spouse or partner, the following documentation must also be submitted:

- Sworn declaration by the sponsor that no other spouses or partners live with him/her in Spain.
- If he/she is married two or more times, a court decision defining the status of the previous spouse and children.
- Children: a birth certificate recorded in the relevant Registry must be submitted. In addition,:
  - If only one parent is sponsoring the reunification: documentary evidence that he/she exercises sole parental responsibility, that he/she has custody, or that the other parent authorises their residence in Spain.
  - If they are over eighteen and are not objectively capable of meeting their own needs, documentary evidence accepted by law.
  - If they are adopted children, decision granting the adoption.

- Family members represented by the sponsor: the court ruling that provides evidence of the representation must be provided. In addition,
  - If they are over eighteen and are not objectively capable of meeting their own needs, documentary evidence accepted by law.
- Ascendants: a birth certificate recorded in the relevant Registry must be provided. The following must also be submitted:
  - Documentation that demonstrates that the sponsor transferred funds or incurred expenses on behalf of the ascendant during the last year of residence in Spain.
  - Documentation that demonstrates the reasons that justify the need for residence in Spain to be authorised.
  - If the ascendants are under the age of 65, documentation that demonstrates humanitarian grounds justifying the authorisation must be provided.

- ***International Mobility System***

To provide documentary evidence of identity, the following documents must be submitted:

- A copy of the sponsor's full passport, travel document or valid registration card.
- A copy of the family member's full and valid passport or travel document.

To provide documentary evidence of the family tie:

- Spouse: a marriage certificate must be submitted.
- Partner with whom there is a relationship analogous to that of a spouse: a certificate of a registered partnership or any other document accepted by law providing evidence of a prior relationship must be submitted. Documents issued by a public authority are preferable.
- Children: a birth certificate recorded in the relevant Registry must be provided. The following documents must also be submitted:
  - If only one parent is sponsoring the reunification: documentary evidence that he/she exercises sole parental responsibility, that he/she has custody, or that the other parent authorises their residence in Spain.
  - If they are over eighteen years of age, evidence of the permit holder's financial dependence and of not having formed an independent family unit.

- If they are adopted children, decision granting the adoption.
- Ascendants: the birth certificate recorded in the relevant Registry and documentation that provides evidence that they are dependent on the sponsor.

- ***International Protection***

Depending on the family member that is going to be reunited a family record book, marriage certificate, birth certificate, etc. is requested.

***d. What methods of investigation are employed by the competent authorities in your (Member) State in the absence of (reliable) documentation?***

- ***General System***

The family member's documentation is checked by the immigration office or the relevant Consulate at which they apply for the visa. If the documentation does not provide guarantees, they are required to appear in person and undergo an interview.

- ***International Mobility System***

The documentation is checked both at the relevant Consulate and at the Large Companies and Strategic Groups Unit, as the body responsible for processing these files. The documents must be duly authenticated and bear an apostille. If any doubts arise, the original documents are requested when they were not submitted previously.

- ***International Protection***

The Ministry of Foreign Affairs is consulted through the relevant Consulates. The family tie and the identity of the sponsor and family member are checked. A forensic police unit from the General Commissariat for Alien Affairs and Borders cooperates as a support unit. Sometimes DNA tests are performed.

***Q15. Please describe the procedure(s) that apply to family members when an application for entry and residence for the purpose of family reunification is submitted, as follows:***

***a. What is the procedure in place in your (Member) State to verify that any extended family members have fulfilled the requirements for family reunification (e.g. dependency)? At what stage(s) of the examination procedure is this verified?***

***Are there any exemptions from fulfilling these conditions and if yes, on what grounds are they granted?***

Based on the definition of the nuclear family: spouse (or partner) and minor children, checks are performed during the processing stage, by assessing the documentation that the sponsor submitted, to verify that other family members (members of the

extended family, which are listed in question 5 of this study) have fulfilled the requirements.

- **General System**

Once the application has been submitted, the Immigration Office is responsible for studying it to determine whether there is a situation of dependency that warrants a permit for family reunification in the case of ascendants or children of legal age.

It should be recalled in this connection that, in accordance with Spanish law (see question 5), under the General System reunification is possible for dependent ascendants, who are over the age of 65, when there are grounds to justify the reunification. To assess the "dependency", remittances that the sponsor has sent, and their frequency and the amount of money, are taken into consideration.

Family members are regarded as depending on the sponsor when, during the last year of residence in Spain, he/she has transferred funds to or incurred costs on behalf of their family member of at least 51 % of the annual per capita gross domestic product in the family member's country of residence.

Ascendants under the age of 65 can be reunited exceptionally when they are dependent on the sponsor, provided that a humanitarian situation justifying it is demonstrated.

Similarly to the reunification of dependent ascendants, children of legal age who have a disability and are not capable of meeting their own needs due to their state of health may also be reunited.

- **International Mobility System**

At the Large Companies and Strategic Groups Unit and the Consulate, during the processing of the application, checks are performed to verify that the ascendant is dependent. A child of legal age who depends financially on the sponsor and has not formed their own family unit can also be reunited. To verify such extreme circumstances, the sponsor must provide documentary evidence of them.

For this purpose, remittances sent to the dependent family member are checked.

***b. Please describe the procedure in place in your (Member) State to verify that the following requirements for family reunification have been fulfilled:***

- ***Health and safety standards, as well as the size of the accommodation determined as suitable in practice.***

The suitability of the accommodation is verified in practice in the following way.

- **General System**

Under this System, the suitable accommodation requirement is verified through the submission of a **report** (to which Article 55 of the Regulation refers), issued by the

competent body of the Autonomous Community or Local Authority in which the sponsor resides.

The sponsor must request the report prior to submitting an application for family reunification, the moment at which he/she must provide documentation for the procedure.

However, if the Autonomous Community has not issued this report within 30 days from the request date, Spanish law provides that evidence of the suitability of the accommodation may be provided by any other means of proof accepted by law.

The suitable accommodation is assessed on the basis of the following:

- Document entitling him/her to occupy the accommodation.
- Number of rooms, specifying the use made of each one.
- Number of people living in the accommodation. The fact that more than one family unit lives in the accommodation will not prevent the housing being deemed suitable.
- The accommodation's habitability.
- Equipment in the accommodation.

- ***International Mobility System***

Suitable accommodation is not established as a requirement for family reunification.

- ***International Protection***

Suitable accommodation is not established as a requirement for family reunification.

- ***Requirements relating to the sponsor's healthcare insurance: conditions under which sponsors have access to healthcare insurance (e.g. by having employment/ self-employment or is this access automatic)?***

Any foreign resident in Spain is covered when they are in one of the following situations:

- Employed or self-employed workers, registered with the Social Security and registered as currently paying contributions or with an equivalent status.
- When they are a pensioner under the Social Security system.
- When they receive a regular benefit from the Social Security, such as unemployment benefits or similar.
- When they have exhausted entitlement to unemployment benefits or similar and are unemployed, provided that they do not provide evidence that they are covered under any other category.

- ***Minimum income requirement sponsors must meet***

***i. The amount of the minimum income requirement in the relevant currency (EUR) and year:***

**- General System**

The amount of financial resources that the sponsor has to demonstrate is understood to refer to the date on which they submit the application. This amount depends on the number of members that they would like to reunite and on the number of dependent family members who already live with the applicant in Spain.

To calculate the amount the Public Income Index (IPREM) is taken into account. In 2016, the IPREM was established at EUR 532.51 per month.

The minimum amounts required in order to meet the sufficient resources requirements are:

- a) 150 % of the IPREM when there are two members in the family unit (the applicant and one more member), which amounts to EUR 799.
- b) If there are more than two people in the family unit, a further 50 % of the IPREM is required, that is EUR 266 would be added.

To verify this requirement the following must be submitted:

- In the case of employed work:
  - Copy of employment contract.
  - If applicable, latest IRPF (personal tax) declaration.
- In the case of self-employed work:
  - Documentary evidence of the activity carried out.
  - If applicable, latest IRPF (personal tax) declaration.
- If the applicant does not perform any paid activities in Spain: certified cheques, traveller's cheques, receipts or credit cards, accompanied by a bank certificate confirming the amount available in credit on the card in question or bank certificate.

To calculate financial resources, income received from the social assistance system is not taken into account. The income that the spouse or partner of the foreign sponsor contributes is taken into account, as well as income from any other direct first-degree family member, who lives in Spain with the sponsor.

**- International Mobility System**

Sufficient financial resources are required for reunification without specifying, in these cases, a minimum amount.

As this system covers skilled migration, the salaries or wealth required from the right holder (now the sponsor) to obtain his/her permit guarantee, in general, the

possession of the sufficient resources to meet the his/her and the family members' needs.

In practice, in order to provide documentary evidence of this requirement, the following are usually submitted (depending on the group): offer of an employment contract, salary slips, up-to-date average annual bank account balance, deposit balances, etc.

- ***International Protection***

Refugees and beneficiaries of subsidiary protection do not need to provide evidence of financial resources in order to reunite their family members.

- ii. ***If your (Member) State sets a different income requirement depending on the type of family member being reunited (e.g. minor children):***

- ***General System***

In exceptional circumstances, when a minor would be reunited, the financial resources can be lower than those specified previously, always on the basis of the principle of the minor's best interest. They must fulfil all the other necessary requirements for reunification.

It is also possible to reduce the required financial resources for family reunification of other family members when there are humanitarian grounds.

- ***International Mobility System***

This group usually exceeds the income amount that is required to reunite their family members.

- ***International Protection***

Refugees and beneficiaries of subsidiary protection do not need to provide evidence of financial resources in order to reunite their family members.

- iii. ***The reference period over which this requirement is considered:***

- ***General System***

Permits are not granted if it is found that it is impossible to maintain the financial resources for one year. To perform this check, the pattern of the sponsor's financial resources over the six months prior to submitting the application is taken into account.

The criterion used in Spain is in accordance with CJUE Judgment 558/14 Mimoun Khachab, which determines that Spanish law in this area is in accordance with European Union law. According to that judgment, assessing the sponsor's financial resources requires taking into consideration the past pattern and future perspectives, and not only the date of submission.

- ***International Mobility System***

It is not taken into consideration.

- ***International Protection***

Refugees and beneficiaries of subsidiary protection do not need to provide evidence of financial resources in order to reunite their family members.

- iv. How any past/ future income of the sponsor is evaluated in practice.***

- ***General System***

The applicant may submit any documentation that provides evidence that they have the financial resources. This documentation may refer to both financial resources that he/she has received in the months preceding the application and to expected future income based on the current employment contract that they submit.

The body that handles the family reunification process assesses all of the documentation, in order to determine the feasibility of accepting the application. The sponsor's Personal Income Tax Declaration from previous financial years and any certificate or proof of income are also assessed.

- ***International Mobility System***

The salary amount that appears in the sponsor's employment contract is normally taken into account. As has already been stated, this amount is, in a high percentage of applications, sufficient.

- ***International Protection***

Refugees and beneficiaries of subsidiary protection do not need to provide evidence of financial resources in order to reunite their family members.

- ***Whether any exemption grounds apply and to what extent non-compliance has consequences for the right to family reunification.***

- ***General System***

As has already been stated, the amount required as financial resources may be reduced in the case of family reunification of minors. Other humanitarian circumstances are also assessed when an application for family reunification of dependent ascendants is submitted.

- ***International Mobility System***

They are not used.

- ***International Protection***

Not required.

- ***At what stage(s) of the examination procedure are the above requirements verified?***

- ***General System***

The fulfilment of the requirements is verified during the preliminary phase of the examination procedure. If documents are missing, the foreign national who made the application is informed and granted a period of 10 days in which to submit them. If they are not submitted, the application is understood to have been withdrawn, although the applicant may still submit another application at a later date.

- ***International Mobility System***

The fulfilment of the requirements is generally verified during the preliminary phase. However, it has already been stated that the exemptions referred to in earlier sections do not apply to this system.

- ***International Protection***

No prior fulfilment of the aforementioned requirements is necessary.

***c. Please describe the procedure in place in your (Member) State to ensure integration measures have been observed, for example, if an application form for civic integration exam(s)/ language test(s) must be submitted to the authorities, etc. Please specify what exemption grounds apply and to what extent non-compliance has consequences for the right to family reunification.***

It has already been stated that in Spain there is no requirement to comply with integration measures in order to apply for or be granted a residence permit for family reunification.

However, in the case of parents of minors born in Spain who have obtained a residence permit due to family ties, once a year has passed since the permit was granted, if the parent does not have an employment contract or financial resources that enable the initial permit to be modified, the integration effort report provided for under Spanish law for the granting of permit renewals may be assessed.

***d. If the above conditions are not (completely) fulfilled, how does your (Member) State guarantee that individual circumstances are taken into account (e.g. nature and solidity of the person's family relationship)?***

- ***General System***

When the legal requirements granting a residence permit for family reunification are not fulfilled, an individual study of the submitted application is carried out. This analysis includes the following elements: the applicant's family situation; prior years of

residence in Spain; the existence of any humanitarian grounds; and, depending on the aspects studied, the possibility of granting or refusing to grant the permit is assessed.

An example of these practices is the possibility of granting a residence permit for family reunification, among other cases, to the registered non-married partner. In the case of an unregistered relationship analogous to marriage, the solidity of the relationship is studied, which, in this case, facilitates the reunification of same-sex partners whose right has not been recognised in their countries of origin.

- ***International Mobility System***

Similar situations to those described under the General System do not normally arise. However, in cases of unregistered relationships analogous to marriage, a notarised document that covers the relationship is accepted.

- ***International Protection***

The conditions laid down in the preceding sections are not applicable for family reunification of beneficiaries of international protection.

***e. What is the procedure in place in your (Member) State to verify whether or not the family member(s) constitute a threat to public policy, public security or public health?***

- ***General System***

Checks are performed both at the Immigration Office and the Consulate (before issuing the relevant visa) to ensure that the sponsor is not prohibited from entering Spain, cannot be removed from the Schengen area and does not have a criminal record for crimes that exist under Spanish law in the countries in which he/she resided previously.

In addition, the family member that is going to be reunited must submit a medical certificate at the Consulate to provide evidence that they do not suffer from any illnesses which could pose a risk to public health, in accordance with the provisions of the 2005 International Health Regulations.

- ***International Mobility System***

At the Large Companies and Strategic Groups Unit, using a computer application for this purpose, checks are performed to confirm that the applicant is not on Spanish territory illegally, that he/she is not prohibited from entering Spain and does not have a criminal record in Spain or in the countries in which he/she resided previously for crimes that exist under Spanish law.

These data are also verified in the procedures carried out at the relevant Consulate.

- ***International Protection***

Processing the applications is the responsibility of the Asylum and Refuge Office, which makes an ex-officio request for police reports, criminal reports and, on some occasions, reports from the National Intelligence Centre (CNI).

***f. How does your (Member) State define the term 'minor child' and how are the best interests of the child taken into account during the examination of the application for family reunification?***

In Spain minor children are those who have not reached the age of 18. The best interests of the minor are verified according to the criteria established in the Organic Law on legal protection for minors, as well as in case law of the Supreme Court.

Spanish law establishes that all minors have the right to have their best interests assessed and considered to be of prime importance in all actions and decisions concerning them, both in the public and private spheres. In all the measures concerning minors that public or private institutions adopt, the Courts or legislative bodies will give precedence to the minor's best interests over any other legitimate interest that may arise. Similarly, restrictions to minors' legal capacity will be interpreted restrictively and, in all cases, in the minors' best interests.

In order to interpret and apply the minor's best interests in each case, the following general criteria are taken into account:

- The protection of the minor's right to life, survival and development and the satisfaction of their basic needs, namely material, physical and educational needs, as well as emotional and sentimental needs.
- The consideration of the minor's wishes, feelings and opinions, as well as their right to participate gradually – depending on their age, maturity, development and personal evolution – in the process of determining their best interests.
- The desirability for their life and development to take place in a suitable family environment that is free from violence. Remaining with their family of origin is also prioritised whenever that is possible and positive for the minor. If the minor is separated from their nuclear family, the possibilities and desirability of them returning is assessed, taking into account the family's evolution and always putting the minor's best interests and needs first.
- The preservation of the minor's identify, culture, religion, beliefs, sexual orientation and identity, as well as the non-discrimination of the minor based on these or any other conditions, including disability, thereby guaranteeing that their personality will develop harmoniously.

The assessment of the minor's best interests means that, as has been noted at several points in this study, that the amount required as financial resources may be reduced when an application is submitted for the family reunification of minors.

***g. Please describe what is involved in an assessment for family reunification where children are concerned, for example, DNA testing, etc. At what stage(s) of the examination procedure is this assessed?***

- **General System**

When births are registered late, it is obligatory for the biological link between the minor and parent resident in Spain to be proven by a DNA test, and any other test acceptable by Law.

The tests are performed through the relevant Consulate with the purpose of proving parenthood in family reunification procedures, when there are doubts about the relationship with the sponsor.

The Ministry of Foreign Affairs and Cooperation has established a procedure for these paternity test analyses. The Consulate Office is responsible for providing the list of laboratories. The selected laboratory must inform the Consulate that they have received acceptance for the test to be performed.

The samples are taken in the consular district, which will determine the date and place and inform the visa applicant of these details. Staff from the laboratory that the consulate office has appointed conduct the test. It is conducted in a laboratory or at the consulate office. A member of staff from the consulate office verifies the identity of the people that are taking part in the test, guaranteeing the chain of custody of the samples at the place of origin.

The results report will be sent to the Spanish consulate office in order for it to accept or reject the visa application, together with the rest of the documentation.

- **International Mobility System**

They are not used.

- **International Protection**

On some occasions, DNA tests are performed during the application processing phase. They are performed in cooperation with the forensic police of the General Commissariat for Alien Affairs and Borders.

***Q16a. Taking the different steps above into account, what is the duration of the procedure deciding on an application for family reunification in your (Member) State – both according to law and in practice:***

- ***Legal time limit for deciding upon an application (if any)?***

- **General System:**

Residence permit applications for family reunification are processed at the Immigration Offices within a maximum of 45 days. These applications are processed on a preferential basis.

- **International Mobility System:**

In the case of family reunification of family members of foreign nationals to whom Law 14/2013 applies, the maximum period for deciding upon an application is 20 days.

- **International Protection:**

The general period for a decision is 6 months, except in urgent cases, when the application concerns minors, in which case the period is 3 months.

- **Average duration of the procedure in practice?**

- **General System**

The average duration of the procedures is reflected in the table below:

	Average decision time (in days)
2011	90
2012	77
2013	59
2014	47
2015	42
2016 (31-10)	49

- **International Mobility System**

Unavailable.

- **International Protection:**

Data is not available.

- **Have any specific measures been taken by your (Member) State to shorten processing times?**

There have been no proposals in this respect.

**Q17. a. Please indicate any challenges experienced by i) sponsors and/ or family members throughout the above-mentioned procedure(s), and/ or ii) your (Member) State in the implementation of the examination procedure (e.g. based on existing studies/ evaluations or information received from relevant authorities and stakeholders) and how these can be overcome.**

In this section, the "Annual Ombudsman's Report" should be mentioned; it covers the main difficulties that citizens have raised with the Ombudsman in relation to this procedure.

The Ombudsman has warned against the rejection of residence permit applications for the reunification of minor children whose parents were legal residents, as no reduction was applied to the amount required to provide evidence of sufficient financial resources for the family reunification. To resolve this issue, the Offices have been informed of the need to consider this possibility.

With regard to asylum seekers, the urgent need for applicants to receive specialised social assistance has been confirmed, in view of the high number of minors that reach the border crossing; unaccompanied minors are often present.

The Annual Ombudsman's Report also highlights complaints concerning the refusal of visas for family reunification, applied for by foreign residents' spouses, as the consulate bodies had taken the view that they had entered into their marriages fraudulently.

The Annual Ombudsman's Report addressed the difficulty experienced by foreign minors in renewing their residence permit, as their family members lacked sufficient resources. In this respect, the Ombudsman requested the various negative decisions to be revoked, taking into consideration the possibility of reducing the required amount, based on the minor's best interests and their social and family integration.

***b. Please provide any examples of proven (e.g. through studies/ evaluations) good practices that might help to overcome the above-mentioned challenges or otherwise. Please specify the source (e.g. based on existing studies/ evaluations/ other sources or information received from relevant authorities and stakeholders).***

The Immigration Offices, following the recommendations of the Ombudsman and the content of immigration legislation, study each residence permit application for family reunification on a case-by-case basis. They observe which members form the family unit, as well as the financial resources available, allowing, if applicable, the amount to be reduced in the case of the reunification of minors.

The Immigration Offices that have the power to make decisions on applications for residence permit renewals for family reunification study each of the submitted applications in detail, and reduce, if applicable, the financial resources required, with the aim of preventing the reunited minors from being placed in an irregular situation. In these cases, the sponsor may submit an integration effort report issued by the competent bodies of the Autonomous Community or, if applicable, Local Body in the place of residence.

## **Section 5: Access to rights following family reunification**

***Q18. Are family members entitled (in the same way as the sponsor) to access the following rights in your (Member) State (please also comment on any planned changes in the national legislation/ policy/ practice):***

***a. Access to education?***

Yes. With regard to access to education, a distinction should be made between access to education by minors and access by family members of legal age. In any case, it is assumed that education is one of the main areas in which it is possible to ensure that migrants, and particularly their children (generation 1.5, reunited; and also generation 2.0, who were born in Spain), integrate properly in Spanish society, and that this will have an impact on their subsequent integration in the labour market (which increasingly requires higher qualifications).

(i) *Access to education for minors*

Compulsory education for children is very highly protected in Spain. The Spanish Constitution establishes in Article 27 that basic education is compulsory and free of charge.

In this respect, all foreign nationals under the age of 16 who are in Spain have the right and duty to education, whatever their status. This right includes access to basic, free and compulsory education. Family members over the age of 16 and under the age of 18 have the right to post-compulsory education.

In order to guarantee this access, Spanish immigration legislation requires that foreign nationals residing in Spain with dependent minors of compulsory school age submit a report on the education of these minors as part of their applications for permit renewals or long-term residence.

In addition, the significant presence of foreign pupils or Spanish students with immigrant parents in Spanish classrooms has made intercultural education one of the public authorities' main lines of action. For this purpose, a range of measures and programmes have been deployed to facilitate minors' access to education, on the basis that state legislation establishes that, as part of their educational and curricular projects, public centres must include actions to encourage acquisition of the host language.

The following could be highlighted:

- Preventing segregated schooling in admission processes at public centres.
- Improving coexistence among pupils through Coexistence Plans that each centre draws up in the framework of their organisational and operational standards and based on the Autonomous Community School Coexistence Plans, and on the School Coexistence Strategic Plan (which is currently being prepared). Through this Plan, the intention is to improve the integration of migrants' children.
- Fostering minors' social, cultural and educational inclusion through programmes and actions for educational inclusion.

In addition to the aforementioned actions, which are led by the Ministry of Education, Culture and Sport, the General Secretary for Immigration and Emigration of the Ministry of Employment and Social Security funds extra-curricular educational programmes run by non-profit social organisations whose aims are intercultural integration and coexistence; meeting special education needs; preventing truancy;

learning of the host country's language and culture; participation of immigrant families in their children's education and in the educational community, and awareness-raising in classrooms of violence or racism.

*(ii) Access to education for foreign nationals of legal age*

Foreign nationals of legal age residing in Spain have the right to access post-compulsory education, obtain the relevant qualifications and to the public grant system under the same conditions as Spanish nationals.

***b. Access to employment and self-employed activity?***

- ***General System***

Yes. The residence permit for family reunification provides authorisation for work without having to complete any other administrative formalities. This rule applies to the spouse, non-married partners and children, provided that they are of working age. They may all work on an employed or self-employed basis, in any part of the Spanish territory and in any occupation.

However, reunited ascendants need to obtain a permit in advance in order to be allowed to work. Thus, access to the labour market is not automatic (unlike for other family members).

Access to work, whether on an employed or self-employed basis, by reunited family members is excluded in the case of international students' family members.

- ***International Mobility System***

Yes. Residence permits provide authorisation to reside and work (both on a self-employed and employed basis).

- ***International Protection***

Reunited family members or beneficiaries of a family extension have the right to work in Spain under the same conditions as Spanish nationals without having to complete any other administrative procedure.

***c. Access to vocational guidance and training?***

Yes. Reunited family members have access to vocational guidance or training programmes under the same conditions as Spanish citizens. These programmes are usually subsidised at national or autonomous-community level.

The National Public Employment Service regularly issues calls for proposals for subsidies for the running of specific training and labour market integration programmes for unemployed young people and other groups that are at risk of social exclusion.

***d. Right to apply for autonomous right of residence independent of that of the sponsor (also in case of dissolution of family ties)?***

***- General System***

Yes. The spouse or partner who has been reunited may obtain an independent residence permit. In order to do so he/she must demonstrate that they have sufficient financial resources or an employment contract (with regard to the latter, he/she may demonstrate that he/she meets or fulfils the requirements to work on a self-employed basis).

The spouse or partner may also obtain an independent residence permit if one of the following situations arises:

- When the matrimonial ties are dissolved or the partnership breaks down. In this case, cohabitation in Spain for at least two years must be demonstrated.
- When he/she is a victim of gender violence or the victim of a crime involving violent acts carried out in the family environment.
- Death of the sponsor.

The sponsor's minor children will obtain an independent residence permit when they reach legal age and have sufficient resources or when they reach legal age and have resided in Spain for five years.

Reunited ascendants may also obtain a residence permit that is independent of the sponsor's when they have obtained a work permit.

The independent residence permit is valid for a minimum of 1 year.

***- International Mobility System***

Reunited family members may apply for a residence permit independent of that of the sponsor under the same conditions as any other foreign national that is residing in Spain under the General System.

***- International Protection***

Reunited family members are issued a permanent residence permit which allows them to work under the same conditions as Spanish nationals; it is renewed every five years. Asylum legislation does not provide for the granting of an independent permit.

***e. Any other rights granted to family members in your (Member) State, for example, healthcare, recourse to public funds, possibility for family members to apply for long-term residence status or naturalisation, etc.?***

***- General System***

They have the same rights as any other legal foreign resident that are exercised according to the principle of equality, that is, under the same conditions as Spanish nationals.

- Right to assembly.
- The right to association and to join a trade union.
- Right to healthcare in Spain<sup>2</sup>, which is publicly funded through the National Health System (SNS), provided that they have covered or beneficiary status.

The covered status generally arises from being employed or self-employed, registered with the Social Security and currently paying contributions or with an equivalent status; being a pensioner under the Social Security system; and from other scenarios provided for in Royal Decree-Law 16/2012 of 20 April on urgent measures to ensure the sustainability of the National Health System and improve the quality and safety of its services.

The following people have the status of beneficiary:

- Spouse or non-married partner of the covered person.
- Descendants of the covered person or of his/her spouse or non-married partner, who are dependent on the covered person and under the age of 26, or, in the case of descendants older than 26, with a recognised degree of disability that is equal to or higher than 65 %.
- Minors under the guardianship or legally fostered by a covered person, their dependent spouse or non-married partner.

In the latter two cases, a person is deemed to be dependent on a covered person if they live together and depend financially on him/her. In this respect, the following must be taken into account:

- Unemancipated minors will always be considered to be dependent on the covered person.
- In the event of separation for work, studies or similar circumstances, it will be considered that the minor lives with the covered person.
- Family members of legal age and emancipated minors are considered as not financially dependent on the covered person, if they have annual income which is more than double the annual amount of the Public Income Index (IPREM).

- Right to access to public housing aid systems.
- Right to social services and benefits. In the case of persons with a disability under the age of eighteen, they will have the right to the special treatment, services and care that their physical or mental state requires.

At the same time, they are subject to the same tax as Spanish nationals.

Furthermore, reunited family members have the right to obtain a long-term residence permit when they meet the requirements for it. As a general rule, the permit granted to the family member has the same validity as the sponsor's. Accordingly, the reunited

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<sup>2</sup> For further information: [http://www.seg-social.es/Internet\\_1/Trabajadores/PrestacionesPension10935/Asistenciasanitaria/RegimenGeneral/BeneficiariosSituac30476/177501](http://www.seg-social.es/Internet_1/Trabajadores/PrestacionesPension10935/Asistenciasanitaria/RegimenGeneral/BeneficiariosSituac30476/177501)

family member will obtain a long-term residence permit when the sponsor obtains one.

With regard to the acquisition of Spanish nationality based on residence, as a general rule, the person is required to have lived in Spain for ten years legally, continuously and immediately prior to the application. However, it is possible to reduce this period in some cases:

- Five years for refugees.
- Two years for nationals of Latin American countries, Andorra, the Philippines, Equatorial Guinea, Portugal and members of Sephardic origin.
- One year in special cases, such as being born in Spanish territory or the widower or widow of a Spanish national.

In order to obtain Spanish nationality, the interested party must provide evidence of good citizenship and a sufficient level of integration into Spanish society. In contrast to the requirements for a residence permit for family reunification, in order to access Spanish nationality the level of integration into Spanish society is assessed by passing the integration test. In the Spanish case, it comprises two tests – one a language test and the other on knowledge of Spanish values and culture – that the Instituto Cervantes designs and administers according to objective and homogeneous criteria.

#### - ***International Mobility System***

Reunited family members under this system may apply for a long-term residence permit in accordance with the provisions of the General Immigration System, under the same conditions as any other foreign national who resides in Spain. In addition, they have the same rights that have been referred to in the previous section, including those regarding acquisition of Spanish nationality.

#### - ***International Protection***

Granting the right to asylum or subsidiary protection involves issuing a permanent residence and work permit, under the terms laid down in the General Immigration System. The decision agreeing to family reunification involves granting a residence permit and, if applicable, a work permit, with the same validity as the sponsor's permit.

With regard to acquisition of nationality, the content referred to above in relation to the General System is applicable, while it should be noted that the minimum period of residence in Spain can be reduced to 5 years for refugees.

***Q19. Are family members of refugees and/ or beneficiaries of subsidiary protection granted refugee/ beneficiary of subsidiary protection status in their own right or a 'derived' permit (from that of the sponsor)? Please clarify how the type of permit issued differs in terms of its validity and rights attached to it. If possible, please also provide information on the cost of the permit.***

Family members who have been sponsored by a family member who was previously granted refugee status or subsidiary protection are given authorisation or a permit to reside in Spain under the same conditions as the eligible family member.

In the case of refugees, the permit is granted without a time limit for the right holder and his/her family members. In the case of beneficiaries of subsidiary protection, the permit granted lasts for 5 years, after which it must be renewed. If the right holder's permit is not renewed, the reunited family members' permits are not renewed.

In both cases, the family members who have been reunited may not exercise the right to reunification of other family members themselves. It is understood that they hold a derived permit from the sponsor's permit.

The reunited person has the same rights as the holder who gave them the right to reunification.

In addition to the document required to stay in Spain, refugees and beneficiaries of subsidiary protection are issued a travel document, as it is impossible for them to obtain a passport.

The documentation costs EUR 10.90. The fee to issue the travel document is EUR 25.70.

***Q20. a. Do any conditions apply to sponsors and/ or family members after admission for the purpose of family reunification in your (Member) State?***

- ***At which stage(s) after admission is it examined whether these conditions have been fulfilled?***

At the time of the permit renewal.

- ***Does not fulfilling one of these conditions constitute a ground for non-renewal or withdrawal of the residence permit?***

Yes.

- ***If yes, how are individual circumstances and interests taken into account?***

- ***General System***

In order to renew a residence permit for family reunification the competent body checks that the requirements have been fulfilled.

If any of them have not been fulfilled, the family situation is assessed individually, as well as the type of requirement that has not been met. Spanish legislation requires very reasonable financial resources for renewal, with the aim of preventing this from placing the family members, especially minors, in an irregular situation. For these purposes, income from the social assistance system is counted.

Furthermore, the amount may be reduced when the family unit includes minors.

In certain cases in which a failure to fulfil the requirement for suitable housing has been confirmed, the permit has been cancelled or not renewed.

In renewal applications one of the requirements may be replaced by submitting the integration effort report.

- ***International Mobility System***

In the case of family members, they may renew their permit if the foreign national who gave them the right to a permit renews his/hers and, with respect to ascendants and children over the age of 18, if they are still economically dependent on the sponsor.

***Q21. a. Please indicate any challenges experienced by family members in your (Member) State with regard to accessing the above-mentioned rights (e.g. based on existing studies/ evaluations or information received from relevant authorities and stakeholders) and how these can be overcome.***

Spanish integration policy has been able to successfully integrate a high number of foreign nationals (the majority of whom are labour migrants), over a short period of time without any breakdowns in social cohesion, including during the financial crisis. In fact, xenophobic movements do not exist, and Spanish society does not consider migration to be a problem.

The conclusions of the study "[Growing up in Spain. The integration of the children of immigrants](#)" highlight that "*half of all the children of immigrants identify as Spaniards*" and that "*perceptions of discrimination among the children of immigrants are very infrequent. At the average age of 18, only 5 % of the sample declared that they had suffered from discrimination "once or many times". The figure barely varied between male (5.4 %) and female (4.8 %) respondents, and it is practically identical to the figure from children of Spanish natives, 6.1 % of whom also say that they have experienced discrimination. These data indicate a generally positive adaptation process and a psychological and cultural convergence between children of immigrants and of Spanish natives. In Spain, there is no evidence of cultural rejection or majority reactive identities among immigrants or their children.*"

However, the new contexts and increasing importance of family reunification as an entry challenge pose new challenges, especially in reunited family members' access to rights in the education and employment spheres.

One of the main challenges that family members face is access to the labour market. At present, "*the number of jobs available for people with low qualifications continues to fall in Spain, as everywhere else in Europe, and this entails a significant problem of social integration over the medium to long term*", considering that, in general, the foreign population, especially young people, have lower qualifications than the national population.

The employment context that these young people are facing is different from the one their parents faced. Moreover, as is pointed out in the article [Highs and lows of immigrant integration in Spain](#)<sup>3</sup>, "second generations have aspirations that differ from their parents' because they have a distinct frame of reference: rather than comparing their quality of life with their countries of origin, their aspirations are determined in relation to those of their contemporaries in the country where they live, in this case Spain. But if their educational results are worse than average, such aspirations run the serious risk of being frustrated and causing feelings of exclusion and marginalisation." As a result, the increasing importance of family reunification and the special situation of the children of migrants points to the need to adapt integration policy by attaching special importance to education and training.

The importance of education and the challenges associated with it have been highlighted by other articles, such as *Strategic priorities in Spanish external action related to migration*<sup>4</sup>.

From an educational perspective, a need for special attention for immigrant pupils has been identified. Late entry into the system once the school year has already begun; education in academic years lower than those intended for their age; the lack of proficiency in Spanish, and the less demanding education systems in the country of origin give reunited children a lower standing than nationals and "increased likelihood of poor academic performance, school drop-out and low aspirations and prospects for the future"<sup>5</sup>.

The importance of combating racism and xenophobia in any sphere, but particularly in education, should also be stressed.

Tackling these challenges properly will ensure suitable integration into society and prevent, to a large extent, reactive opinions from appearing in the host society.

***b. Please provide any examples of proven (e.g. through studies/ evaluations) good practices with regard to the provision of education/ access to the labour market and vocational guidance and training/ right to autonomous residence for family members in your (Member) State/ etc. Please specify the source (e.g. based on existing studies/ evaluations/ other sources or information received from relevant authorities and stakeholders).***

Adapting integration policy with a view towards addressing the aforementioned challenges is an ongoing process. However, a series of programmes and actions that could be defined as good practices have been implemented.

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<sup>3</sup> [Highs and lows of immigrant integration in Spain](#)<sup>3</sup>. Carmen González Enríquez. Elcano Royal Institute, 20 May 2016

<sup>4</sup> [Strategic priorities in Spanish external action related to migration](#). Carmen González Enríquez. Senior researcher in Demography and International Migration, Elcano Royal Institute. July 2014. Available at:

<sup>5</sup> [Growing up in Spain. The integration of children of immigrants](#). Obra Social La Caixa.

The extra-curricular programmes mentioned in Question 18 and the Coexistence Plans influence the educational integration of children of migrants.

Furthermore, the new School Coexistence website of the Ministry of Education, Culture and Sport has been made available to the entire education community; it offers different materials and resources to help to improve coexistence in schools.

The MECED also establishes agreements with the autonomous cities of Ceuta and Melilla to promote the integration of pupils who have a specific need for educational support, with the aim of reducing differences and discrimination towards these children who, as a result of late or irregular schooling, lack of knowledge of the Spanish language, cultural differences or any other circumstances experience difficulties in continuing regular education and are at risk of dropping out of school early. The agreements are also aimed at contributing to the reschooling of and professional training for young people and adults from underprivileged backgrounds with social and labour-market exclusion problems due to a lack of general and basic education and first-level vocational training that would facilitate their integration, with particular attention to women.

Finally, in 2015, in the framework of the European Progress - Anti-discrimination Programme, OBERAXE implemented the FRIDA Project.

The aim of the FRIDA Project, in the area of primary and secondary education, was to train and raise awareness among teachers, head teachers and tutors, and the education community in general, about preventing and identifying racism, xenophobia and other forms of intolerance in the classroom, thereby strengthening the positive image of the integration of immigrants and ethnic minorities in the field of education.

The project was carried out in collaboration with the National Research and Innovation Centre (CNIIE) of the Ministry of Education, Culture and Sport, the Autonomous Communities and civil society, and it was well received by all participants. As part of the programme a [Support Manual for the prevention and detection of racism, xenophobia and related forms of intolerance in the classroom](#) was prepared and distributed widely. This Manual tries to describe why these forms of discrimination and intolerance exist in our society and provide a series of good practices put forward by some Autonomous Communities and organisations.

Work also began in 2016 to promote the FRIDA II Project, for the exchange of good practices in the fight against racism, xenophobia and intolerance in education, as a continuation of the FRIDA project.

In terms of identifying good practices to reduce the difficulties in social and labour-market integration, the active employment policies should be mentioned. Employment is the main space for integration of working-age migrants. The economic crisis has affected the immigrant population more severely. Furthermore, this group continues to be employed in basic sectors, as their education levels are, on the whole, basic. Therefore, integration policy must prevent disadvantaged situations in access to employment from arising.

In 2015, 14.82 % of people who benefited from vocational guidance and information measures were foreign nationals.

Mention must be made of the PREPARA programme, which is aimed at people who are no longer eligible for unemployment protection; professionalism certificates which provide documentary evidence of professional skills and training in order to carry out work, and the maintenance of the National Youth Guarantee System for young people who neither study nor are employed.

### **Section 6: National and international case law.**

#### **Q22. Has the following CJEU/ ECtHR case law led to any changes in policy and/ or practice in family reunification in your (Member) State:**

Yes.

The CJEU judgment of 21 April 2016 rules that the competent authorities can reject the application for family reunification based on the likelihood of the income and stable and regular resources being retained.

Thus, the provision in Spanish legislation to refuse applications for reunification if it is not likely that the income will be retained is in line with European Union law.

#### ***Q23. Has any national case law led to changes in policy and/ or practice in family reunification in your (Member) State since 2011 onwards?***

Yes. In this respect, two judgments of the Constitutional Court should be mentioned.

Judgment 131/2016 and Judgment 46/2014 consider that in the decisions on files in the field of immigration when expulsion from the national territory is applicable, the foreign national's ties shall be assessed first, as well as the consequences that such a measure would have on family life and, especially, on the fulfilment of the duties arising from parent-child relationships, when dependent minors are involved.

The Supreme Court judgment of 24 June 2015 confirms that refusing a visa for family reunification of the spouse does not entail a violation of the right to personal and family privacy when it has been found that the marriage was entered into fraudulently.

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## Annex 1. Statistical Annex

*Q24. With reference to Question 3.a. above, please complete the following table with national statistics on the (estimated) number of applications for family reunification, if available.*

**TABLE 1**

In this table the numbers of first-time applications for family reunification submitted since 2011 are reflected. The numbers which were accepted or rejected are also indicated.

### FIRST-TIME RESIDENCE PERMITS FOR FAMILY REUNIFICATION

	Applications	Accepted	Rejected
<b>2011</b>	48 783	36 921	20 812
<b>2012</b>	36 390	26 030	12 981
<b>2013</b>	29 110	23 107	9 022
<b>2014</b>	34 684	27 161	9 173
<b>2015</b>	35 125	26 740	8 084
<b>2016 (31-10)</b>	32 871	24 434	8 409
<b>Overall total</b>	216 963	164 393	68 481

**TABLE 2**

In this table the numbers of first-time applications for family reunification submitted since 2013 are reflected, indicating the numbers of which were submitted, accepted or rejected by gender.

### FIRST-TIME RESIDENCE PERMITS FOR FAMILY REUNIFICATION

#### BREAKDOWN BY GENDER

		Applications	Accepted	Rejected
<b>2013</b>	MALE	11 548	9 053	3 831
	FEMALE	17 559	14 052	5 191
	UNASSIGNED	3	2	
	<b>Total</b>	<b>29 110</b>	<b>23 107</b>	<b>9 022</b>
<b>2014</b>	MALE	14 369	11 112	4 002
	FEMALE	20 315	16 046	5 171
	UNASSIGNED		3	
	<b>Total</b>	<b>34 684</b>	<b>27 161</b>	<b>9 173</b>
<b>2015</b>	MALE	14 091	10 620	3 333
	FEMALE	21 034	16 120	4 751
	UNASSIGNED			
	<b>Total</b>	<b>35 125</b>	<b>26 740</b>	<b>8 084</b>
<b>2016</b>	MALE	13 064	9 681	3 398
	FEMALE	19 803	14 752	5 009
	UNASSIGNED	4	1	2
	<b>Total</b>	<b>32 871</b>	<b>24 434</b>	<b>8 409</b>

**TABLE 3**

In this table the total number of applications per year and by gender is reflected. A distinction is also made between asylum seekers and subsidiary protection applicants. The table contains data from the year 2011 to 2015. No data is available for 2016.

**ASYLUM AND SUBSIDIARY PROTECTION APPLICATIONS ACCEPTED**

**BREAKDOWN BY GENDER**

		Asylum status	Subsidiary Protection
2011	MALE	149	341
	FEMALE	143	289
	<b>Total</b>	<b>292</b>	<b>630</b>
2012	MALE	140	167
	FEMALE	90	117
	<b>Total</b>	<b>230</b>	<b>284</b>
2013	MALE	122	194
	FEMALE	81	131
	<b>Total</b>	<b>203</b>	<b>325</b>
2014	MALE	215	688
	FEMALE	169	511
	<b>Total</b>	<b>384</b>	<b>1 199</b>
2015	MALE	132	480
	FEMALE	86	322
	<b>Total</b>	<b>218</b>	<b>802</b>

**TABLE 4**

This table shows the number of residence permits for family reunification from 2011 according to the family member for whom it was applied and granted.

**FIRST-TIME RESIDENCE PERMITS FOR FAMILY REUNIFICATION.****BREAKDOWN BY FAMILY TIE**

	<b>Applications</b>	<b>Accepted</b>	<b>Rejected</b>
<b>2011</b>	48 783	36 921	20 812
03 00 Spouse / Non-married partner	21 923	17 226	8 512
03 01 Minor/disabled child	23 049	17 997	10 649
03 02 Minor under guardianship (< 18 years old)	931	391	256
03 03 Minor under guardianship (incapable < 18 years old)	367	330	22
03 04 Dependent ascendant	2 386	953	1 345
03 09 Other residence permits for family reunification	127	24	28
<b>2012</b>	36 390	26 030	12 981
03 00 Spouse / Non-married partner	16 356	12 450	5 149
03 01 Minor/disabled child	15 929	10 571	6 030
03 02 Minor under guardianship (< 18 years old)	1 825	1 336	610
03 03 Minor under guardianship (incapable < 18 years old)	255	242	18
03 04 Dependent ascendant	2 008	1 379	1 141
03 09 Other residence permits for family reunification	17	52	33
<b>2013</b>	29 110	23 107	9 022
03 00 Spouse / Non-married partner	13 554	11 079	3 648
03 01 Minor/disabled child	13 790	10 638	4 530
03 02 Minor under guardianship (< 18 years old)	364	513	200

03 03 Minor under guardianship (incapable < 18 years old)	159	153	10
03 04 Dependent ascendant	1 237	718	634
03 09 Other residence permits for family reunification	6	6	
<b>2014</b>	<b>34 684</b>	<b>27 161</b>	<b>9 173</b>
03 00 Spouse / Non-married partner	12 974	10 682	3 049
03 01 Minor/disabled child	19 928	15 405	5 401
03 02 Minor under guardianship (< 18 years old)	248	183	81
03 03 Minor under guardianship (incapable < 18 years old)	164	155	5
03 04 Dependent ascendant	981	470	615
03 09 Other residence permits for family reunification	389	266	22
<b>2015</b>	<b>35 125</b>	<b>26 740</b>	<b>8 084</b>
03 00 Spouse / Non-married partner	14 438	11 139	3 222
03 01 Minor/disabled child	16 793	12 582	4 065
03 02 Minor under guardianship (< 18 years old)	123	66	46
03 03 Minor under guardianship (incapable < 18 years old)	157	158	9
03 04 Dependent ascendant	901	352	541
03 09 Other residence permits for family reunification	2 713	2 443	201
<b>2016 (31-10)</b>	<b>24 157</b>	<b>17 395</b>	<b>5 646</b>
03 00 Spouse / Non-married partner	13 522	10 097	3 338
03 01 Minor/disabled child	16 404	12 035	4 271
03 02 Minor under guardianship (< 18 years old)	117	78	41
03 03 Minor under guardianship (incapable < 18 years old)	97	92	4
03 04 Dependent ascendant	889	347	579
03 09 Other residence permits for family reunification	1 842	1 785	176
<b>Overall total</b>	<b>216 963</b>	<b>164 393</b>	<b>68 481</b>



**GOBIERNO  
DE ESPAÑA**

**MINISTERIO  
DE ASUNTOS EXTERIORES  
Y DE COOPERACIÓN**

**MINISTERIO  
DE JUSTICIA**

**MINISTERIO  
DEL INTERIOR**

**MINISTERIO  
DE EMPLEO  
Y SEGURIDAD SOCIAL**