

Unaccompanied children and Family reunification

The right to family reunification is laid down in the Directive on this issue¹. The European Commission (EC) published guidelines on the interpretation and use of this Directive in 2014. The EC emphasised in the guidelines that the 'best interests of the child should always be taken into account in family reunification applications'. This could mean that permission for family reunification should be granted because it is in the best interests of the child, even if not all the formal criteria for family reunification are fulfilled.

Family reunification procedure in the Netherlands

Rules for family reunification are dealt with in a very strict way in the Netherlands: there are no examples in which permission was granted because this was in the interests of a child without all the formal criteria being fulfilled.

Unaccompanied children can request family reunification with their parents and siblings once they have been granted asylum. Recently, it has also become possible to apply for family reunification with adult siblings if their dependence on the family can be proved.

An application for family reunification starts with the application for an 'authorisation for temporary stay' (MVV) for the relatives. This is a visa to stay in the Netherlands for longer than three months. The child (referent) has to apply for this visa for their family members at the Immigration Services (IND) in the Netherlands. In principle, the IND has three months to decide on the application, but in practice this takes six to twelve months.

For approval of the application, it is important to show that you were a family up to the time of the flight. The strongest evidence for this are official documents such as a marriage or birth certificate. The IND will check these documents for authenticity. If these documents are missing, you must show that you have made sufficient efforts to obtain the documents. If the IND considers that sufficient efforts have been made, a DNA test can be offered to prove that the family members belong to the family of the child in the Netherlands. Family members who are not the parents or siblings (for example, grandparents or foster children) are extensively interviewed about their relationship with the child in the Netherlands. An embassy employee in the country of origin determines through these interviews if they were indeed a family up to the time of the flight of the child.

When the IND gives permission for the MVV and the embassy has provided the family members with it, the family can come to the Netherlands. The family members have to report within a few days after arrival in the Netherlands to the Application Centre where

¹ Council Directive 2003/86/EC of 22 September 2003.

they only stay for a few days. They receive a derived asylum status based on family reunification without having to apply for it (however, they may also choose to file their own asylum application and hence receive their own refugee status not based on family reunification).

The child should be enabled to live with their family members as soon as possible, because the 'living-together-requirement' is one of the requirements for the asylum status based on family reunification that the family members will receive. This requirement means that the child should live with the family members for at least a year.

Role of the guardian

Nidos makes sure the request for reunification is submitted within the prescribed period of three months after the asylum permit has been granted. Nidos guardians put in the request themselves or ask someone from the Dutch Refugee council to do so.

The guardian finds out who the child wishes to reunite with. When a child does not want to be reunited with their parents and/or other family members, it is Nidos' role as a guardian to make what is called a 'key decision' in the best interests of the child. These kind of decisions are always taken by the guardian in consultation with their supervisor, behavioural scientists and legal advisors. In order to make the right assessment, the guardian will also be in touch with the parents and/or other relatives of the child, if possible.

When the child is finally living with their parents and this seems to be a situation providing a stable upbringing for the child, Nidos will ask for discharge of guardianship, by which the parental responsibility of the parents will be restored. In a situation involving family reunification with other family members than the parents, Nidos will consider transferring guardianship to them when the situation regarding upbringing is stable and when this is in the interests of the child.