



**Harmonization?: Commonalities,
Divergences and Critical Issues for
Family Reunification in EU Member
States**

Dr. Raffaele Bracalenti
IPRS

Directive 2003/86/CE:

Requirements for Member State and sponsor

- **The maximum legal residency requirement for sponsors may not exceed two years**

Sponsor must have:

- a residency permit valid for at least one year
- accommodation regarded as normal for a comparable family in the same region that meets health and safety standards
- Sickness insurance
- Stable and regular resources that are sufficient to maintain the sponsor & family members w/o recourse to social assistance

Directive 2003/86/CE:

Eligible family members

- **the sponsor's spouse**
- **minor children of sponsor and sponsor's spouse, including adopted children**
- 1st-degree relatives of either the sponsor or spouse who are dependent and do not have family support in country of origin
- adult unmarried children of sponsor or spouse who are unable to provide for themselves due to health reasons
- a partner with whom the sponsor has a “duly attested stable long-term relationship”
- In the case of a polygamous marriage, only one spouse is permitted entry

Directive 2003/86/CE:

Procedural Requirements and Residency Permits

- Written notification of the decision must be given with 9 months
- Residency permit (R.P.) must have a validity of at least one year and be renewable
- Adult family members are eligible to apply for an autonomous residency permit after a maximum of 5 yrs of residence

[Divergences in France]

- Unmarried partners are only permitted if they have co-habited for at least 5 yrs
- Adult children are only eligible if the entire family lives in France
- Procedural time limit of 12 months
- 10-year R.P. issued after 2 yrs of legal residence and proof of integration

[Divergences in Germany]

- Spouses - discretionary if the sponsor has time limited R.P., if they were married in Germany, or if they did not state that they were married at the time of the request
- Unmarried co-habiting partner: discretionary
- Processing time: 6-8 months
- Autonomous R.P. w/in 5 yrs in case of: widowhood, separation after at least 2 yrs of residence, exceptional circumstance (e.g., domestic violence)

[Divergences in Italy]

Ineligible

- Unmarried partners
- Same sex spouses

Eligible

- Parents (>65) w/o children in the country of origin
- Natural parents of minor children with a residency permit
- Adult children only in the case that they are completely incapable of working

[Divergences in Sweden]

- Eligible: Parents if they can demonstrate co-habitation with the sponsor prior to migration
- Permanent residency permit if one can demonstrate co-habitation with the sponsor with the sponsor prior to migration
- 1 to 2-yr renewable residency permit if prior co-habitation is not demonstrable

(Most recent change April 30, 2006)

[Divergences in the UK*]

- Sponsor must have a R.P. of at least 2 yrs; full-time employment
- Spouse must have been married or lived w/sponsor for at least 2 yrs
- Partner must have lived w/sponsor for at least 2 yrs
- Fiancé must marry w/in 6 months of entry
- Parents/grandparents (>65) who are widowed & do not have children in country of origin
- Parents/grandparents (<65): only in special cases
- Requirements vary between Ireland and England/Scotland/Wales

*Did not agree to comply with Directive

[Concluding Remarks]

- Minimal changes have occurred following the implementation of Directive 2003/86/CE
- France, Germany, Italy, and Sweden comply with the mandatory elements of the Directive
- Primary differences: requirements for prior co-habitation, unmarried partners, length of R.P. issued
- Significant variation remains between Member States
- Concern: Limited ability for parents to join minor children who are legal residents