

FAMILY REUNIFICATION OF NON-EU NATIONALS: IRELAND IN AN EU CONTEXT

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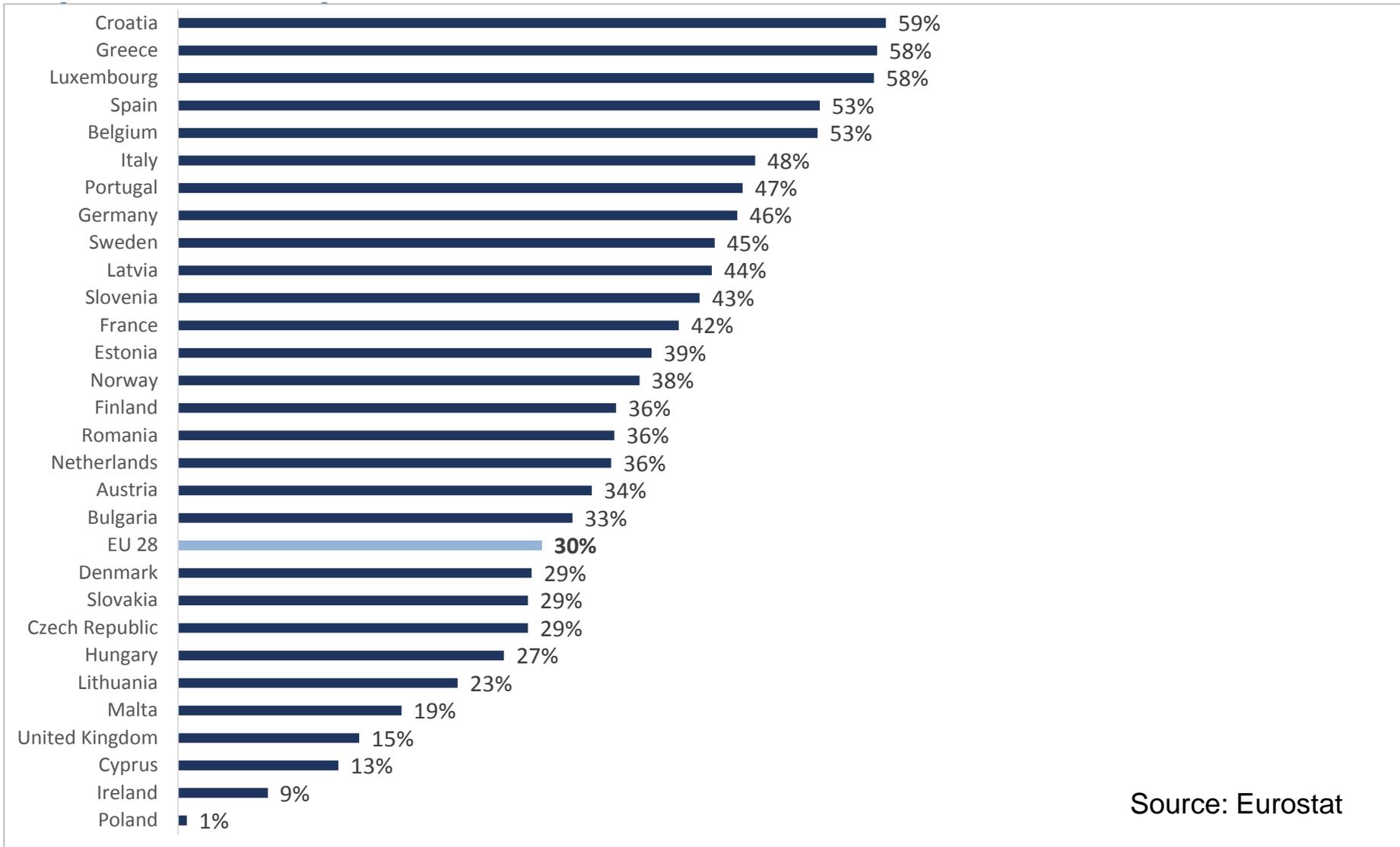
Key points

1. Family migration flows into Ireland are lower than elsewhere in Europe
2. There are significant differences between Ireland and the EU in terms of legislation on family reunification
3. New legislation has changed eligibility for family members of international protection beneficiaries in Ireland
4. The literature and civil society identified integration as an important area of focus for future developments in respect of family reunification

Methodology

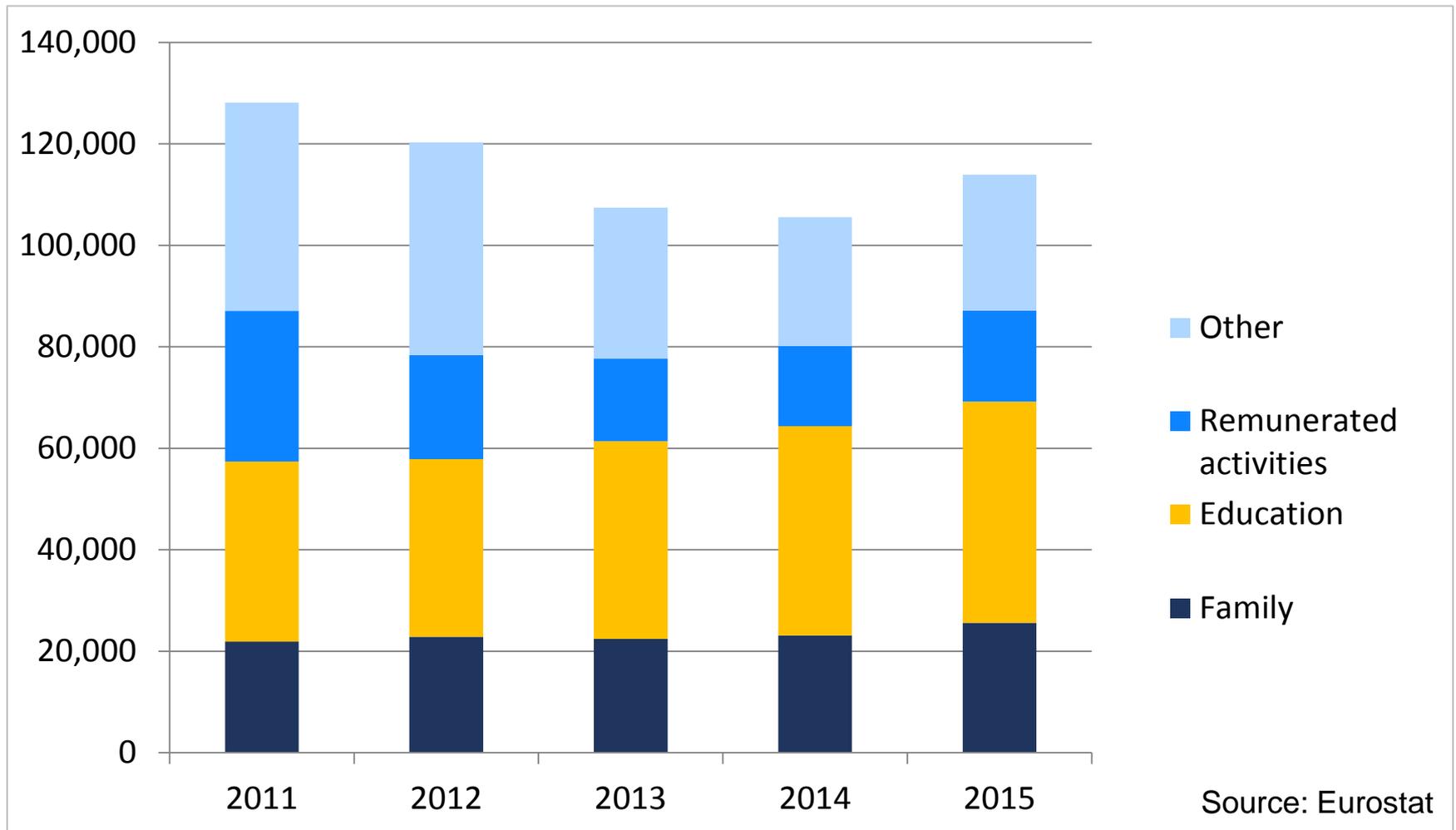
- The information used to produce the report was gathered according to commonly agreed European Migration Network (EMN) study specifications developed to facilitate comparability across countries
- The study collates data and information on national and EU policy, practice and legislation on non-EEA family reunification
- Desk research plus interviews undertaken with Irish Naturalisation and Immigration Service (INIS), UNHCR Ireland, Immigrant Council of Ireland (ICI), Nasc and Crosscare Migrant Project

Percentage of first residence permits issued for family reasons in EU MS + Norway, out of total first permits



Source: Eurostat

All valid residence permits held by non-EEA nationals aged 16 and over, Ireland (2011-2015)



Family reunification applications - Beneficiaries of International Protection (2011-2016)

| | 2011 | 2012 | 2013 | 2014 | 2015 | 2016* |
|-----------------------------------|------|------|------|------|------|-------|
| Family members applied for | 990 | 732 | 704 | 353 | 713 | 756 |
| Family members granted | 547 | 389 | 207 | 229 | 328 | 406 |
| Family members refused | 195 | 300 | 395 | 83 | 295 | 277 |

Source: INIS

Data relate to individual family members

*2016 data to end November

Family-based private sponsorship

- The government introduced the Syrian Humanitarian Admission Programme (SHAP), a once-off scheme, available between 14 March 2014 and 30 April 2014, in response to the crisis in Syria*
- Applications were made on behalf of 308 persons
- Ireland provided permission to reside to 119 persons. Permissions were granted initially for a period of two years
- Sponsors had to show an ability to support their family members in Ireland. INIS stated that all refused SHAP applications were unsuccessful due to a lack of sufficient financial support/accommodation on the part of the sponsor**

Legislation and policy

- European Union Family Reunification Directive (2003/86/EC) governs family reunification in most EU Member States except IE, UK and DK*
- In Ireland two systems operate:
 - Family reunification for non-refugees (such as migrant workers) is governed by *INIS Policy Document on Non-EEA Family Reunification*.
 - Operates on the basis of ministerial discretion**
 - Lack of a legislative *right* to apply for family reunification***
 - Family reunification in the context of international protection governed by International Protection Act 2015

Family reunification for non-refugees: Eligible non-EEA sponsors

- Lawfully resident foreign nationals with Stamp 4 permission
- Employment permit holders
- Beneficiaries of international protection
- Lawfully resident foreign nationals with Stamp 5 permission
- Researchers under a Hosting Agreement
- PhD students studying for a doctorate accredited in Ireland
- Ministers of religion with Stamp 3 permission

Family reunification for non-refugees: Eligible family members

- Spouses and children
- Elderly parents in some circumstances*
- Other dependent relatives at the discretion of the Minister
- *De facto* relationship (IE and FI, NO, HR)
- Most MS extend the scope of family reunification beyond the nuclear family

Family reunification for non-refugees: Material requirements

- MS generally require non-EU nationals to fulfil three material requirements:
 - Accommodation
 - Health insurance
 - Minimum income
- Minimum income is a requirement in IE (generally income must be above Family Income Supplement levels).* Health insurance is a requirement on registration in the State in most cases. Accommodation does not normally form part of the assessment of an application
- More favourable rules for beneficiaries of international protection apply. BIPs are not required to fulfil these requirements

Family reunification for non-refugees: rights

- In IE some family members have restricted access to the labour market. Generally MS provide unrestricted access to the labour market for family members
- Family members have restricted or no access to social payments in IE. Similar situation in most MS

Family reunification for refugees: Legislation

- Family reunification in the context of international protection differs from non protection-related FR in two (key) ways:
 - It is provided for in law, so there is a clear legal entitlement to family reunification for nuclear family members
 - No financial requirements/ thresholds are imposed upon the sponsor
- Sponsors must however apply within 12 months to avail of family reunification under the Act of 2015
- Beneficiaries of subsidiary protection and programme refugees have the right to apply for family reunification. Not all MS extend this right to Beneficiaries Subsidiary Protection (CY, MT, DE (temporary), SE (temporary))*

Family reunification for refugees: Definition of family member in legislation

- Section 56 (9) of the Act of 2015 defines family member, in relation to the sponsor, as:
 - Spouses and civil partners (marriages/civil partnerships subsisting prior to asylum application)
 - (Unmarried) children
 - Where the sponsor is a (unmarried) child, his parents and their (unmarried) children

Family reunification for refugees: Unaccompanied minors

- The Family Reunification Directive provides a broader definition of family for unaccompanied minors than the Act of 2015
- The Directive includes in the definition first degree relatives of the child ‘in the direct ascending line’ and legal guardians or any other member of the family where the child refugee has no family in the direct ascending line or where they cannot be traced
- Section 56 (9) of the Act of 2015 defines family member, in relation to the (unmarried) child sponsor, as his parents and their (unmarried) children
- The UK is the only MS that does not extend the right to family reunification to unaccompanied minors

Family reunification for refugees: Dependent family members

- Dependent family members were among those eligible for family reunification under the Refugee Act 1996 (Section 18(4)) of the Refugee Act 1996 provided for ‘dependent members of the family’ of a refugee to be permitted to enter and reside in the State at the discretion of the Minister:
‘any grandparent, parent, brother, sister, child, grandchild, ward or guardian of the refugee who is dependent on the refugee or is suffering from a mental or physical disability to such extent that it is not reasonable for him or her to maintain himself or herself fully’
- The Act of 2015 limits family reunification to nuclear family members

Family reunification for refugees and non-refugees: Common challenges

- Stakeholders interviewed for the present study observed that family reunification applications can be onerous for some applicants and that legal services may be required*
- Critics have described the application process as lengthy, ‘not applicant friendly’ and ‘prohibitively costly’**
- Family members have access to mainstream services
- No targeted integration support measures are in place for family members
- NGOs emphasised challenges facing families arising from protracted periods of separation, cultural differences, language competence and access to adequate housing
- NGOs stressed the importance of orientation and integration supports post arrival

Reflections arising from the study

- Family migration is one of the main reasons for immigration into the EU
- Family reunification is an avenue through which those already legally resident in a Member State may be joined by their family
- Family reunification has a positive impact on social, cultural and economic stability and cohesion in the host country, as well as the integration of family members and sponsors
- In the context of the current refugee and migrant crisis, the European Commission, UNHCR and NGOs have observed that family reunification is one example of a legal pathway for people in displacement to reach safety

Thank you