



PRESS RELEASE No 19/24

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Judgment of the Court in Case C-560/20 | Landeshauptmann von Wien (Family reunification with a minor refugee)

A recognised unaccompanied minor refugee has the right to family reunification with his or her parents even if he or she reached the age of majority during the family reunification procedure

In the exceptional circumstances of the case, an entry and residence permit must also be granted to that refugee's adult sister who requires the permanent assistance of her parents on account of a serious illness

The Court of Justice clarifies that an unaccompanied minor refugee has the right to family reunification with his or her parents even if he or she reached the age of majority during the family reunification procedure. Family reunification must exceptionally extend to a major sister where she requires the permanent assistance of her parents on account of a serious illness. Otherwise, the refugee would, de facto, be deprived of his or her right to family reunification with his or her parents. That right cannot be subject to the condition that the minor refugee or his or her parents have accommodation, sickness insurance as well as sufficient resources for them and the sister.

After an unaccompanied Syrian minor obtained refugee status in Austria, his parents and his adult sister applied for residence permits there in order to be able to join him. The Austrian authorities rejected those applications on the ground that, after they were submitted, the young Syrian became an adult, as well as subsequent applications for family reunification.

The parents and sister challenged the latter rejection before the Administrative Court, Vienna. That court requested the Court of Justice to interpret the directive on the right to family reunification ¹. It states inter alia that, on account of her cerebral palsy, the sister is totally and permanently dependent on the assistance of her parents, meaning that they cannot leave her alone in Syria.

The Court of Justice recalls that the directive grants a specific protection to refugees. On account of their particular vulnerability, it specifically favours unaccompanied minor refugees by granting them a right to family reunification with their parents.

In the first place, the Court holds that **an unaccompanied minor refugee, who reached majority during the procedure relating to the application for family reunification with his or her parents, has a right to such reunification** ². That right cannot depend on how quickly or slowly the application for international protection is processed. Consequently, the application cannot be rejected on the ground that the refugee is no longer a minor on the date of the decision on that application.

In the second place, the Court notes that, on account of the illness of the minor refugee's sister, if she were not approved for family reunification with him, at the same time as her parents, the refugee would, de facto, be deprived of his right to family reunification with them, given that it is impossible for those parents to join their son without taking their daughter with them. Such an outcome would be incompatible with the unconditional nature of

that right and would undermine its effectiveness, disregarding both the objective of the directive on the right to family reunification and the requirements arising from the Charter of Fundamental Rights of the European Union, aimed at respecting private and family life as well as the minor's rights, which that directive is obliged to guarantee.

The Court finds, in the third place, that neither the minor refugee nor his parents can be required to have for themselves and for the seriously ill sister sufficient accommodation, sickness insurance as well as sufficient resources. After all, it is practically impossible for an unaccompanied minor refugee to meet such conditions. Likewise, it is extremely difficult for the parents of such a minor to meet those conditions before even having joined their child. Thus, to make the possibility of family reunification of unaccompanied minor refugees with their parents dependent on compliance with the said conditions would, in reality, be tantamount to depriving those minors of their right to such reunification.

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of EU law or the validity of an EU act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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The [full text and, as the case may be, an abstract](#) of the judgment is published on the CURIA website on the day of delivery.

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¹ Council [Directive 2003/86/EC](#) of 22 September 2003 on the right to family reunification.

² In its judgment of 12 April 2018, *A and S*, [C-550/16](#), the Court held that an unaccompanied minor who attains his or her majority during the *asylum* procedure retains his or her right to family reunification. Such an application for family reunification must however be made within a reasonable time, in principle within three months of the date on which the minor concerned was declared to have refugee status (see [Press Release No 40/18](#)).