

City/Name  
Refnr.  
Tel:  
Fax:  
Email:

**Re: [Name Client] – Take Charge Request: Family Unity**

Dear Sir or Madam,

I am submitting this written application on behalf of [client name]. [Client name], born on [date of birth], has a [nationality] nationality. [Name family member]

- o is a family member or a sibling of the [client name] and is legally present in [EU Member States]<sup>1</sup>;
- o is the [father, mother, or other adult responsible for the minor, whether by law or by practice of that Member State, or sibling] of [client name] and is legally present in [EU Member States]<sup>2</sup>;
- o is a relative of the [client name], who is legally present in [EU Member States], and can take care of the unaccompanied minor<sup>3</sup>;
- o is a family member of [client name], who currently resides as a beneficiary of international protection in [EU Member States]<sup>4</sup>;
- o is a family member of [client name], who is awaiting a decision on the asylum application in [EU Member States]<sup>5</sup>.

In light of the right to family unity, we would kindly ask you to request [EU Member States] to take charge of the examination of his/her asylum claim in accordance with Articles 8, 9, and 10 of Regulation No. 604/2013 (“the Dublin Regulation”).<sup>6</sup>

The Dublin Regulation prescribes the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third country national. In the specific circumstances of our client, the Member State responsible is determined based on the family unity provisions. Article 8, 9 and 10 of the Dublin III Regulation provide for the right to family unity.

**o Article 8  
Minors**

1. Where the applicant is an unaccompanied minor, the Member State responsible shall be that where a family member or a sibling of the unaccompanied minor is legally present, provided that it is in the best interests of the minor. Where the applicant is a married minor whose spouse is not legally present on the territory of the Member States, the Member State

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<sup>1</sup> Article 8 (1) of the Dublin III Regulation.

<sup>2</sup> Article 8 (1) of the Dublin III Regulation.

<sup>3</sup> Article 8 (2) of the Dublin III Regulation.

<sup>4</sup> Article 9 of the Dublin III Regulation.

<sup>5</sup> Article 10 of the Dublin III Regulation.

<sup>6</sup> Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or stateless person (recast) [2013] OJ L180/31 (‘Dublin III Regulation’).

responsible shall be the Member State where the father, mother or other adult responsible for the minor, whether by law or by the practice of that Member State, or sibling is legally present.

2. Where the applicant is an unaccompanied minor who has a relative who is legally present in another Member State and where it is established, based on an individual examination, that the relative can take care of him or her, that Member State shall unite the minor with his or her relative and shall be the Member State responsible, provided that it is in the best interests of the minor.

3. Where family members, siblings or relatives as referred to in paragraphs 1 and 2, stay in more than one Member State, the Member State responsible shall be decided on the basis of what is in the best interests of the unaccompanied minor.

o **Article 9**

**Family members who are beneficiaries of international protection**

Where the applicant has a family member, regardless of whether the family was previously formed in the country of origin, who has been allowed to reside as a beneficiary of international protection in a Member State, that Member State shall be responsible for examining the application for international protection, provided that the persons concerned expressed their desire in writing.

o **Article 10**

**Family members who are applicants for international protection**

If the applicant has a family member in a Member State whose application for international protection in that Member State has not yet been the subject of a first decision regarding the substance, that Member State shall be responsible for examining the application for international protection, provided that the persons concerned expressed their desire in writing.

Article 8, 9 and 10 of the Dublin III Regulation should be interpreted in accordance with the right to family unity as safeguarded by recital 14, 15, 16 and 17 of the Dublin III Regulation, the Family Reunification Directive (No. 2003/86/EC)<sup>7</sup>, the Charter of Fundamental Rights of the European Union<sup>8</sup>, and the European Convention on Human Rights<sup>9</sup>.

The Court of Justice of the European Union (“CJEU”) and the UK Upper Tribunal have supported this approach. In 2012, the CJEU clarified in *K v Bundesasylamt*<sup>10</sup> that a Member States must assume the responsibility for the examination of an application for international protection where it would bring together dependant family members. To this end, it must inform the Member State previously responsible pursuant the Dublin Regulation. This is also applicable when the Member State previously responsible did not make a ‘take charge’ request.

Most recently, the UK Upper Tribunal has adopted a similar approach in *ZAT and Others*.<sup>11</sup> It concerned seven Syrian applicants. Four applicants, including three unaccompanied minors and an adult dependent brother, currently lived in an unofficial camp near Calais in France. Their three siblings had already been allowed to reside as a beneficiary of international protection in the United Kingdom. Whereas the four applicants in Calais had not applied for asylum in France and, therefore, were not subject to the Dublin Regulation, the UK Upper

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<sup>7</sup> Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification [2003] OJ L251/12 ('Family Reunification Directive').

<sup>8</sup> See e.g. Article 7, 9 and 33.

<sup>9</sup> See e.g. Article 8 ECHR.

<sup>10</sup> Case C 245/11 *K. v. Bundesasylamt* [2012] ECR I-00000, ECLI:EU:C:2012:685.

<sup>11</sup> UK Upper Tribunal, *The Queen on the application of ZAT, IAJ, AAM, MAT, MAJ and LAM v. Secretary of State for the Home Department*, JR/15401/2015; JR/154015/2015, 29 January 2016, accessible at: <http://bit.ly/1Px3VeM>.

Tribunal held that the applicants should be reunited with their family members in the United Kingdom. It held that the refusal to admit the applicants to the UK would disproportionately interfere with the applicants' right to respect for family life under Article 8 ECHR. However, the UK Upper Tribunal requested the applicant to apply for international protection in France before being transferred to the United Kingdom in order to comply with the family unity provisions in the Dublin III Regulation.

In the specific circumstances of our client [facts of the case], the provisions regarding family unity determine that [EU Member States] should be the responsible Member State for the examination of our [client name] asylum claim. The current situation requires [Requesting EU MS] to request the responsible Member State, namely [EU Member States], to take charge of our client's asylum claim. For these reasons, we would kindly ask you to request [EU Member States] to take charge of the examination of his/her asylum claim in accordance with Articles 8, 9 and 10 of the Dublin III Regulation.

I kindly ask you to register and process this request. In addition, I would appreciate it if you could send me an acknowledgement of your receipt. If you require any further information regarding this request, please contact the undersigned for any clarification.

Yours sincerely,