



# aida

Asylum Information  
Database

Asylum Information Database

# National Country Report

# *Sweden*



## ACKNOWLEDGMENTS

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## The AIDA project

The AIDA project is jointly coordinated by the European Council on Refugees and Exiles (ECRE), Forum Réfugiés-Cosi, Irish Refugee Council and the Hungarian Helsinki Committee. It aims to provide up-to date information on asylum practice in 14 EU Member States (AT, BE, BG, DE, FR, GR, HU, IE, IT, MT, NL, PL, SE, UK) which is easily accessible to the media, researchers, advocates, legal practitioners and the general public and includes the development of a dedicated website which will be launched in the second half of 2013. Furthermore the project seeks to promote the implementation and transposition of EU asylum legislation reflecting the highest possible standards of protection in line with international refugee and human rights law and based on best practice.



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## Statistics

**Table 1: Applications and granting of protection status at first instance**

	Total applicants in 2012	Refugee status	Subsidiary protection	Humanitarian Protection	Rejections (in-merit and admissibility)	Refugee rate	Subsidiary protection rate	Humanitarian Protection	Rejection rate
	A	B	C	D	E	$B/(B+C+D+E)$ %	$C/(B+C+D+E)$ %	$D/(B+C+D+E)$ %	$E/(B+C+D+E)$ %
<b>Total numbers</b>	43887	3745	7595	1060	19170	12%	24%	3%	61%
<b>Breakdown by countries of origin of the total numbers</b>									
<b>Syria</b>	7814	1130	2960	5	380	25%	66%	0%	8%
<b>Somalia</b>	5644	320	1715	20	2040	8%	42%	0%	50%
<b>Afghanistan</b>	4755	775	1185	575	1655	18%	28%	14%	39%
<b>Serbia</b>	2696	0	0	20	2435	0%	0%	1%	99%
<b>Eritrea</b>	2356	200	1065	5	510	11%	60%	0%	29%
<b>Bosnia Herzegovina</b>	1549	0	0	5	1330	0%	0%	0%	100%
<b>Iran</b>	1529	310	20	15	645	31%	2%	2%	65%
<b>Albania</b>	1490	25	20	0	940	3%	2%	0%	95%
<b>Irak</b>	1322	195	110	45	680	19%	11%	4%	66%
<b>Kosovo</b>	942	0	0	40	685	0%	0%	6%	94%
<b>Other<sup>1</sup></b>									
<b>Russia</b>	941	55	30	20	490	9%	5%	3%	82%

Source: Swedish Migration Board (applications), Eurostat (decisions)

<sup>1</sup> Other main country of origin of asylum seekers in the EU

**Table 2: Gender/age breakdown of the total numbers of applicants in 2012**

	Number	Percentage
<b>Total number of applicants</b>	<b>43887</b>	
<b>Men</b>	27745	63%
<b>Women</b>	16142	37%
<b>Unaccompanied children</b>	3578	8%

Source: Swedish Migration Board

**Table 3: Comparison between first instance and appeal decision rates in 2012**

	First instance		Appeal	
	Number	Percentage	Number	Percentage
<b>Total number of decisions</b>	<b>31570</b>		15975	
<b>Positive decisions</b>				
<i>Total</i>	12400	39%	2895	18%
<i>Refugee Status</i>	3745	12%	725	5%
<i>Subsidiary protection</i>	7595	24%	1450	9%
<i>Hum/comp protection</i>	1060	3%	715	4%
<b>Negative decision</b>	19170	61%	13085	82%

Source: Eurostat

## Overview of the legal framework and practice

### *Main legislative acts relevant to asylum procedures, reception conditions and detention*

Title in English	Original title	Abbreviation	Weblink
The Aliens Act	Utlänningslagen 2005:716	UtIL	<a href="http://www.riksdagen.se/sv/Dokument-Lagar/Lagar/Svenskforfattningssamling/Utlanningslag-2005716_sfs-2005-716/?bet=2005:716">http://www.riksdagen.se/sv/Dokument-Lagar/Lagar/Svenskforfattningssamling/Utlanningslag-2005716_sfs-2005-716/?bet=2005:716</a>
Aliens Ordinance Act	Utlänningsförordningen 2006:97	UtIF	<a href="http://www.riksdagen.se/sv/Dokument-Lagar/Lagar/Svenskforfattningssamling/Utlanningsforordning-200697_sfs-2006-97/?bet=2006:97">http://www.riksdagen.se/sv/Dokument-Lagar/Lagar/Svenskforfattningssamling/Utlanningsforordning-200697_sfs-2006-97/?bet=2006:97</a>

### *Main implementing decrees and administrative guidelines and regulations relevant to asylum procedures, reception conditions and detention*

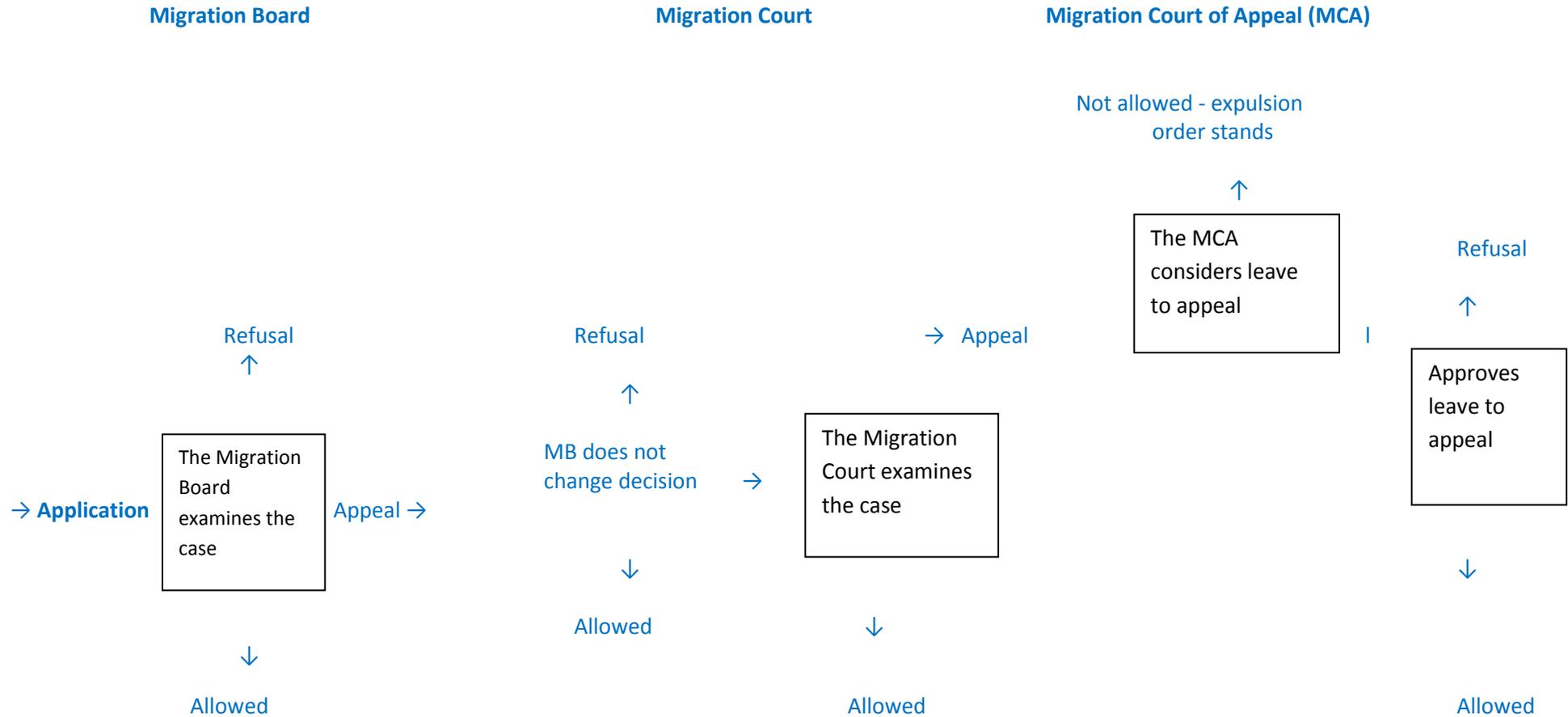
Title in English	Original title	Abbreviation	Weblink
Reception of Asylum Seekers and Others Act 1994:137	Lagen om mottagande av asylsökande 1994:137	LMA	<a href="http://www.notisum.se/rnp/sls/lag/19940137.htm">http://www.notisum.se/rnp/sls/lag/19940137.htm</a>
The ordinance on the law on reception of asylum seekers	Förordning om lagen om mottagande av asylsökande 1994:361	LFA	<a href="http://www.notisum.se/rnp/sls/lag/19940361.htm">http://www.notisum.se/rnp/sls/lag/19940361.htm</a>

# Asylum Procedure

## A. General

### 1. Organigram

#### THE SWEDISH ASYLUM PROCEDURE





## 5. Short overview of the asylum procedure

The administrative policy system in Sweden differs from the rest of Europe and therefore also the division of tasks. All Government decisions in Sweden are collective and all public agencies are subordinate to but independent from the Government. Unlike in other countries, Swedish Secretaries of State have limited discretion to take independent decisions. All Government decisions are taken jointly by the Government. Different Secretaries of State are responsible for different areas and may also act as heads of ministries. Some tasks performed by ministries in other countries are in Sweden performed by civil service departments, which are overseen by a ministry. The Migration Board is the central administrative authority in the area of asylum and subordinate to the Government as a whole. It reports to and cooperates at various levels with the Ministry of Justice. . The Migration Board is responsible for the processing of applications for the coordination and division of tasks between the divisions of Asylum, Managed Migration and Citizenship. Its coordination responsibility includes ensuring effective case management in line with Sweden's Alien and Citizenship Act as well as upholding due process. The Migration Board is also responsible for aliens without residence permits until such time that a permit has been granted and the person has settled in a municipality. Legal provisions pertaining to the Migration Board are found primarily in the Aliens Act and the Ordinance with Instructions for the Migration Board.

While an application is being examined or appealed, the asylum seeker is covered by the Reception of Asylum Seekers and Others Act (Swedish Statute 1994:137), which is applied by the Migration Board. Once a decision has been reached in relation to a specific asylum application, two scenarios might occur. In case the application was successful the Migration Board Reception Unit is responsible for the facilitation of the asylum seeker's settlement in a municipality through cooperation with the *Arbetsförmedling*. Where the application is, however, unsuccessful or a residence permit was refused the asylum seeker will be returned to their country of origin.

### *The Migration Courts*

Since the reform of the Aliens Act in 2006 (Utlänningslagen 2005:716) Sweden has an asylum procedure where first instance decisions are taken in an administrative procedure by the Migration Board, whereas appeals are dealt with on an adversarial basis at two levels in the administrative courts. A first appeal may be lodged before the Migration Court (of which there are currently three) with a further possibility of appeal before the Migration Court of Appeal (*Migrationsöverdomstolen*), to which leave to appeal has to be requested.

The Migration Courts are a special division of the County Administrative courts (*Förvaltningsrätten*) in Stockholm, Gothenburg and Malmö. The Migration Court of Appeal is a section of the Administrative Court of Appeal in Stockholm (*Kammarrätten i Stockholm*). For other administrative cases the highest court of appeal is the Supreme Administrative Court (*regeringsrätten*), which, however, does not deal with asylum claims.

### *The Migration Board Procedures*

Asylum applications can only be made at designated offices of the Migration Board to which airport and port applicants are referred to.

Asylum cases can either be dealt with as accelerated procedure cases or by way of the regular procedure. Manifestly unfounded cases and Dublin cases fall into the first category. Legal counsel is neither appointed in these cases nor in most manifestly well-founded cases. Decisions in accelerated procedures must be taken within three months. If an accelerated procedure decision is appealed (including a Dublin decision) there is no suspensive effect.

Asylum applicants in both categories have similar rights to accommodation, financial allowances and health care. All applicants are issued with an administrative identity card (LMA card) which enables them to access benefits.

The Migration Board is responsible for examining all asylum claims at first instance but also for determining whether new circumstances can lead to a different outcome in cases that have already been fully processed and where there is a legally enforceable removal order.

Public legal counsel is appointed free of charge in all asylum cases in the regular procedure. The applicant can request a specific lawyer, but in most cases it is the Migration Board that designates legal counsel. Interpreters are available at all stages of the procedure. There is always an oral interview at the Migration Board, whereas at the Migration Court and the Court of Appeal level an oral hearing is not mandatory but can take place on request if it facilitates decision-making or is determined necessary in accordance with current practice as determined by the Administrative Court of Appeal, The Migration Court of Appeal (*Migrationsöverdomstolen*)

The decisions of the Migration Board are notified personally to the applicants by a Reception officer through an interpreter who participates generally through a telephone. The applicant must appeal a negative decision within three weeks from that day, otherwise the decision will take effect and become final.

When a decision is appealed the appeal is first reconsidered by the Migration Board. The Board has the discretion to either change its earlier decision should important new circumstances warrant that, or confirm the refusal. In the latter case, an appeal can be lodged with the Migration Court.

#### *The Migration Court Procedures*

According to the Swedish constitution the courts enjoy independent status. Neither the Swedish Parliament nor any public authority can determine how a court should adjudicate in a particular case. The procedure at the Migration Courts is adversarial which means that the Swedish Migration Board and the applicant meet as two parties in a Migration Court.

The Migration Courts sit normally with one qualified judge and three lay judges. The latter are appointed, upon recommendations from political parties represented in Parliament, by the County Council of the region where the court is situated. Most decisions are unanimous but if there is a tied vote the opinion of the judge prevails.

Normal court procedure is in writing and submissions from the parties can be exchanged and commented on before the case is ready for determination. The applicant has the right to request an oral hearing but this is only granted if it is seen as beneficial for the investigation or if it would result in a rapid determination of the case. Witnesses and experts may be called to an oral hearing.

Before a determination is made under written or oral procedure the case is reviewed orally by the case officer in front of the qualified judge and lay judges. Before the review the judge will have had access to all written documents in the case. The lay judges generally have access to selected documents but can on request access the entire file. However this requires that they come to the court before the hearing. In the course of this review an explanation is provided regarding the facts of the case and the legal investigation that has been carried out with reference to statutory provisions and legal cases, and also any relevant legal literature. Earlier cases that can be regarded as forming legal practice and providing a guide are given special attention.

If new grounds for seeking protection first appear at court level, the court may refer the case back to the Migration Board for reconsideration. This is because an applicant has the right to have their protection grounds assessed at two separate instances.

When an oral hearing takes place the judge will end the proceedings by stating the exact date and time of delivery of the determination. The applicant then has three weeks from that date to request leave of appeal to the Migration Court of Appeal in the event the asylum request is rejected. The same applies to the Migration Board should it wish to appeal a positive decision. When there is no oral hearing the decision is mailed to the legal counsel and the three week period is calculated from when confirmation of receipt is received.

### *The Migration Court of Appeal Procedures*

According to section 12 of the Swedish Aliens Act leave to appeal to the Migration Court of Appeal is issued if

1. it is of importance for the guidance of the application of the law that the appeal is examined by the Migration Court of Appeal or
2. there are other exceptional grounds for examining the appeal.

In the general law on administrative courts there is a further ground for leave to appeal "If there is reason to change the decision the Administrative Court reached", but this does not apply to the Aliens Act. Leave is only granted where an appeal may be of importance as a precedent, or if there are exceptional reasons, such as the Migration Court made a serious procedural error.

The Migration Court of Appeal is the main source of precedent in the system. Decisions by the Migration Courts are not deemed to have any special status as precedence, even though they may contain important legal reasoning.

The Court of Appeal can exceptionally hold an oral hearing but in most cases there is only a written procedure. Decisions on leave to appeal are taken by two persons, a judge and a case-officer. There are no lay judges at the Appeal Court. If leave to appeal is granted, a decision is taken by three judges. In exceptionally important cases seven judges will be sitting in a case. Free legal aid is provided for the purpose of making an application for leave to appeal. If leave is granted further assistance is provided.

The Migration Board can also appeal the migration court's decision, if the decision is in favour of the applicant. A positive determination can therefore not be considered final until three weeks after it has been handed down. Decisions of the Migration Court of Appeal are final and non-appealable.

When the Court of Appeal hands down its decision, the expulsion order is enforceable and the failed applicant is expected to leave Sweden voluntarily within two weeks.

In national security cases the Migration Board is the first instance and the Migration Court of Appeal provides views on the appeal, but the Government is legally responsible for the final decision. However if the Court of Appeal determines that there is a risk of torture or other breaches of Article 3 of the European Conventions on Human Rights, which has been incorporated into Swedish law, the Government has to abide by this opinion.

One of the main challenges from the asylum seeker's standpoint is the burden of proof placed on the asylum seeker to substantiate their claim and also how the evidence provided is assessed. Strong focus is being put on the individual's circumstances and less so on evidence on treatment of other family members or the wider group to which the applicant belongs.

## B. Procedures

### 1. Registration of the Asylum Application

#### Indicators:

- Are specific time limits laid down in law for asylum seekers to lodge their application?  Yes  No
- Are there any reports (NGO reports, media, testimonies, etc) of people refused entry at the border and returned without examination of their protection needs?  Yes  No

The Migration Board is the only authority responsible for registering an asylum application. Asylum applications can only be made at designated offices of the Migration Board (in Stockholm-Solna and Märsta-, in Gothenburg and Malmö). If a person seeks asylum at an airport or port, they are referred to the Migration Board.

There are no specific time limits laid down in law within which a claim must be made but in reality if a late claim is made the applicant must put forward reasons for the delay during the asylum interview, but still risk having their credibility called into question for not having sought protection earlier.

### 2. Regular procedure

#### General (scope, time limits)

#### Indicators:

- Time limit set in law for the determining authority to make a decision on the asylum application at first instance (in months):  N/A
- Are detailed reasons for the rejection at first instance of an asylum application shared with the applicant in writing?  Yes  No
- As of 31<sup>st</sup> December 2012, the number of cases for which no final decision (including at first appeal) was taken one year after the asylum application was registered 3857

The Migration Board has a wide range of tasks in the field of migration and has special units for different kinds of applications for example, work permits, family reunification, citizenship and asylum. A law or political science degree is generally required to work on asylum cases. There are special units for dealing with Dublin cases. Much effort has been put in by the Migration Board in the last two years to curtail the waiting period for asylum decisions at the first instance and currently 60 % of cases are decided within three months. There is no significant backlog currently.

At present the Board gives priority to the expedition of processing of asylum applications submitted by Syrian refugees due to a policy requiring the Swedish Government to grant temporary protection in the majority of cases and permanent protection where the individual's circumstances so require. Furthermore, the processing of manifestly unfounded cases as well as asylum applications from Eritreans - due to a high acceptance rate - have been streamlined. Consequently, applications submitted by asylum seekers with other nationalities can be put on temporary hold by the Migration Board, thereby causing a prolongation of the time frame between lodging an asylum application and the actual interview. Even though more staff has been employed to compensate this delay this does not have an immediate effect on the average processing times.

While the average length of the asylum procedure at first instance is currently 147 calendar days, at second instance no statistics are available at this moment.

## Appeal

### Indicators:

- Does the law provide for an appeal against the first instance decision in the regular procedure:
  - Yes  No
  - o if yes, is the appeal  judicial  administrative
  - o If yes, is it suspensive  Yes  No
- Average delay for the appeal body to make a decision: Not available

### *The Administrative Migration Court Procedures*

A refusal decision by the Migration Board can be appealed and for cases dealt with under the regular procedure this has a suspensive effect. In manifestly unfounded cases and Dublin cases there is no suspensive effect.

Appeals are made to the Migration Courts in Stockholm, Malmö and Gothenburg. A fourth court, situated in Luleå will begin handling cases later this year. Appeals can be made both in relation to facts and/or points of law. The asylum seeker has three weeks after having been informed of the decision to lodge an appeal. The decision is communicated to the asylum seeker by a staff member of the Migration Board's nearest reception centre with the assistance of an interpreter (often available by telephone). It is the duty of the legal counsel to contact their client to submit an appeal and examine the refusal decision. However, an asylum seeker can also refrain from appealing the decision by signing an appropriate form and withdrawing the claim.

Oral hearings at the Migration Court are not mandatory but can be requested by the asylum seeker through the lawyer. A decision has to be made by the judge on the matter of an oral hearing before the case is examined by the court. Where the court refuses an oral hearing the applicant is given a set date by which the appeal must be completed. Currently the three courts vary in the extent to which oral hearings are granted: Malmö grants oral hearings in 33% of cases, Gothenburg in 21% of cases and Stockholm just 14%, with a national average of 20%.

An oral hearing may be open to the public initially but before the proceedings start the judge inquires about the applicant's wishes in this respect and makes a decision accordingly. The judge may, however, outweigh the wishes of the applicant and declare that the hearing be *in camera* (e.g. in cases of national security).

Decisions are published but formulated in a way as to minimise any harm to the applicant. Names can be omitted on request and certain parts of the testimony can be declared confidential and therefore not included in the final decision. The Courts' decisions are not available on the Internet, however, upon request the general public has access to all decisions in paper or electronic versions.

### *The Migration Court of Appeal Procedures*

According to section 12 of the Swedish Aliens Act leave to appeal to the Migration Court of Appeal is issued if

1. it is of importance for the guidance of the application of the law that the appeal is examined by the Migration Court of Appeal or
2. there are other exceptional grounds for examining the appeal.

In the general law on administrative courts there is a further ground for leave to appeal "If there is reason to change the decision the Administrative Court reached", but this does not apply to the Aliens Act. Leave is only granted where an appeal may be of importance as a precedent, or if there are exceptional reasons, such as the Migration Court made a serious procedural error.

The applicant has three weeks to appeal to the Migration Court of Appeal after the publication of the decision.

The Migration Court of Appeal is the main source of jurisprudence in the system. Decisions by the Migration Courts are not deemed to set precedent, even though they may contain important legal reasoning.

The Court of Appeal can exceptionally hold an oral hearing but in most cases there is only a written procedure. Decisions on leave to appeal are taken by two persons, a judge and a case-officer. There are no lay judges at the Appeal Court. If leave to appeal is granted, a decision is taken by three judges. In exceptionally important cases there is a sitting with seven judges.

Free legal aid is provided for public counsel to make an application for leave to appeal. If leave is granted then further aid is provided. Until a decision on leave to appeal is handed down the appeal has a suspensive effect. If leave is refused the expulsion order is legally enforceable.

The Migration Board can also appeal the migration court's decision to the Migration Court of Appeal, if the decision is in favour of the applicant. In the event of an appeal a positive determination can therefore not be considered final until three weeks after it has been handed down. Decisions of the Migration Court of Appeal are final and non-appealable.

In 2012 a total of 10.067 appeals were made by both parties to the Migration Court of Appeal of which 42 cases were given leave to appeal. In March 2013 3.451 requests have been made of which 13 have been approved.

When the Court of Appeal hands down its decision the expulsion order is enforceable and the person is expected to leave Sweden voluntarily within two weeks.

In national security cases, i.e. if the asylum; seeker is considered as a potential threat to national security, the Migration Board is the first instance and the Migration Court of Appeal provides views on the appeal, but the Government is legally responsible for the final decision. However if the Court of Appeal determines that there is a risk of torture or other breaches of Article 3 of the European Conventions on Human Rights, which has been incorporated into Swedish law, then the Government has to abide by this opinion.

## Personal Interview

### Indicators:

- Is a personal interview of the asylum seeker conducted in most cases in practice in the regular procedure?  Yes  No
  - o If so, are interpreters available in practice, for interviews?  Yes  No
- In the regular procedure, is the interview conducted by the authority responsible for taking the decision?  Yes  No
- Are interviews ever conducted through video conferencing?  Frequently  Rarely  Never

Swedish legislation and regulations allow for a personal interview in all asylum cases. These are carried out by officers of the Migration Board and are divided into two phases. A reception officer interviews the applicant regarding personal details, health, family and general background and can also request that any supporting documents be provided. The asylum case officer carries out an interview to establish the basis of the claim in the presence of a legal counsel, an interpreter and the asylum seeker. Some interviews with the same interpreter, legal counsel and asylum seeker can take place by video link especially if the participants are at a great distance from each other geographically but usually they are conducted in the physical presence of all concerned. The interview may be audiotaped by the asylum case officer but this is not mandatory and the tape is not made accessible to legal counsel. Currently changes are being discussed with a view to making official recordings available to counsel. Legal counsel and/or the applicant can record the interview themselves with their own recording devices but there are no statistics that show how often this occurs. Since the asylum case officer only makes a recording for the purpose of double-checking the notes taken during the interview, the audio-recording is not considered formally part of the processing of the asylum application and therefore the permission of the asylum seeker is not required before a recording is made.

All interviews, whether within the ambit of the regular or accelerated procedure, are carried out by the authority that is responsible for taking decisions on the asylum applications. Almost *verbatim* notes are taken and the transcript but not the audio-tape is made available to the applicant through the legal counsel to comment on and add to before a decision is made in the case. A specific date is given by the Board, usually 1 to 2 weeks for when these comments and additional information have to be submitted. They are often appended to or included in the written appeal.

A female applicant may request a female interpreter. This also applies to the gender of the legal counsel. This possibility is not limited just to females. The Migration Board is not legally obliged but does its best to accommodate these requests. If the interpreter is lacking the necessary skills and this becomes apparent during the interview the case worker can abort the interview and rearrange for another time with a competent interpreter. There is no formal system to guarantee the quality of interpretation and there is no formal register of approved interpreting and translation companies/services. The Migration Board is not obliged to use authorised legal interpreters. However the Courts do engage authorised legal interpreters to a larger extent but they are not always available with regard to certain languages.

There is a general code of conduct for interpreters issued by *Kammarkollegiet* in Stockholm and last updated in 2010.<sup>2</sup> All companies stress that they follow the basic principles and respect the rules on confidentiality.

<sup>2</sup> Kammarkollegiet, "God tolksed – Vägledning för auktoriserade tolkar" (Guidelines for certified interpreters), December 2010, available [here](#).

## Legal assistance

### Indicators:

- Do asylum seekers have access to free legal assistance at first instance in the regular procedure in practice?  
 Yes       not always/with difficulty       No
- Do asylum seekers have access to free legal assistance in the appeal procedure against a negative decision?  
 Yes       not always/with difficulty       No
- In the first instance procedure, does free legal assistance cover:  
 representation during the personal interview       legal advice       both
- In the appeal against a negative decision, does free legal assistance cover  
 representation in courts       legal advice       both

Free legal assistance is provided to the asylum seekers throughout the regular procedure and at all appeal levels and is funded by the state budget. However in Dublin cases and manifestly unfounded applications normally no free legal assistance is provided<sup>3</sup>. The legal counsel is assigned and designated by the Migration Board unless the asylum applicant asks for a specific lawyer. The criteria for the appointment of legal counsel take into consideration whether the counsel is located close to the office responsible for handling the case. With the recent implementation of the project "*Kortare väntan*" (Shorter wait) practice has been developed whereby public counsel is appointed very early on in the case, allowing them in most instances to meet the client before the asylum interview takes place. The lawyer has to inquire briefly as to the substance of the claim and any substantiating documents as well as provide the asylum seeker with advice on the asylum procedure. The legal counsel then attends the oral interview and subsequently makes a submission which incorporates any views on the oral transcript and any supplementary information counsel wishes to refer to in relation to the substance of the case.

It is impossible for the legal counsels to know in advance the number of hours of work they will actually be paid for by the authorities and they can have their hours reduced by a decision of the Migration Board or at a later stage of the Court. These decisions can be appealed separately by the legal counsel. On average 10-15 hours of work is usually approved at the first instance for regular cases and any hours beyond those have to be carefully motivated based on the exceptional nature of the case. Interpretation costs are reimbursed separately along with other necessary expenses. Lawyers do not get paid for investigating country of origin information.

Other areas of legal practice are often better remunerated than asylum cases. Currently the fees are around € 150 an hour. At the Court level the legal costs are higher if there is an oral hearing compared to a mere written procedure.

There are no special requirements on lawyers with regard to their knowledge of asylum and migration law. It is sufficient that they have a law degree in order for them to be appointed. The Migration Board maintains a list of persons who have registered to be legal counsel in asylum and migration cases and distributes cases according to the availability of these counsels. There are no requirements on legal counsel to pass any tests in this area of law and this means there can be an uneven level of competence which in individual cases can be to the detriment of the asylum seeker's protection grounds. The asylum seeker has the right to complain if the legal counsel does not fulfil their duties and to request a new lawyer. However this is rarely granted. A lawyer has to have seriously breached their

<sup>3</sup> There is a right to free legal assistance if a person is detained for more than three days as a measure related to expulsion or transfer. Also certain vulnerable asylum seekers (deaf and mute for example) can be granted free legal assistance.

professional duties to be removed from a case, e.g. drunken behaviour or other gross misconduct not directly related to the handling of the substance of the case. Migration law is not very prestigious in the legal profession but initiatives have been taken at the Universities of Uppsala and Lund to give training to students at doctoral level in this field who will monitor and analyse current practice of international law.

### 3. Dublin

#### *Indicators:*

- Number of outgoing requests in the previous year: 8576
- Number of incoming requests in the previous year: 3600
- Number of outgoing transfers carried out effectively in the previous year: 3346
- Number of incoming transfers carried out effectively in the previous year: 2100

#### *Procedure*

#### *Indicator:*

- If another EU Member State accepts responsibility for the asylum applicant, how long does it take in practice (on average) before the applicant is transferred to the responsible Member State? Not available

All asylum seekers are fingerprinted if they are 14 years or older and checked both in the EURODAC and VIS databases. The latter when fully operational within the Schengen countries will contain information on all visas issued by EU countries to all third country nationals and will contain biometric information. Because of on-going developments with VIS the Swedish authorities predict an increase in Dublin cases where the responsibility lies on another EU country. The number of VIS hits for Eritreans and Libyans has increased sharply in the first quarter of 2013 showing that other Schengen countries are responsible for assessing the asylum claim.

The applicant is initially informed in writing and orally that a Eurodac hit has been registered and is given the opportunity to register any objections to being sent to the assigned country. A decision is then made to formally transfer the person and this decision is communicated in person by the Migration Board to the applicant. The applicant has to sign that this decision has been received. The reception officer then discusses the practicalities of the trip to the designated country and indicates how soon this could take place. If the applicant appears willing to cooperate a date is later fixed for the transfer. If the applicant does not cooperate then the case will be handed over to the police for a forced transfer. A decision is also made to reduce the daily allowance to the asylum seeker because of their unwillingness to cooperate. The applicant is informed of the right to appeal in person and the right to write it in their own language if need be but also told that an appeal will not have a suspensive effect unless the Migration Court makes a different assessment.

Asylum applicants are not detained when they are being notified that another country is responsible for assessing their asylum application. However a new strategy is being developed within a flexibility project of housing Dublin cases when a hit is recorded in Eurodac closer to the detention centres from which they can be transferred instead of allowing them to settle initially anywhere in Sweden.<sup>4</sup>

Average processing time for all Dublin cases in 2012 was 99 days. From the day of the Migration Board transfer decision it took on average 55 days before transfer took place. In 2013 it takes 46 days. By way of comparison, the average processing time for manifestly unfounded cases in 2012 was 48 days.

<sup>4</sup> Report from the Migration Board on increased flexibility 2012-11-01.

In 2012 Sweden registered 8576 Dublin cases (both incoming and outgoing requests) and decided on 8286 in the same period. Of the outgoing requests 1895 cases were “taking charge cases” and 4368 “taking back cases”. Italy was the most frequent country with 3033 requests for transfer followed by Norway, Poland, Malta and Germany. 308 “taking charge cases” and 1547 “taking back cases” were refused. The average case processing time for establishing Dublin cases by the Migration Board was 25 days (37 days for Italy). Full processing took an average of 199 days up to transfer from Sweden with 88% of cases being completed within 12 months. Effective Dublin transfers through the Migration Board to other countries implementing the Dublin regulation were 2629 in 2012. The largest groups were Somalis and Afghans (330 and 337 respectively). The police transferred 717 cases of whom 153 were Somalis.

There were 3600 incoming requests to Sweden in 2012 with Germany, Norway, Denmark and France being the sources of most requests. Sweden accepted 59% (2100) but it is not known if all accepted persons have arrived.

Sweden interprets the Dublin Regulation rules rather strictly and respects the hierarchy established by the Regulation. The Swedish Aliens Act refers to the Dublin Regulation rules but not in detail since the Regulation itself is Swedish law.

Regarding the use of Article 3.2, the so-called “sovereignty clause” and Article 15, the humanitarian clause Sweden has previously applied Article 15 in cases where family members were in different Member States, while Article 3.2 has been used where individuals found themselves already on Swedish territory. The Court of Justice of the European Union (CJEU) judgment in the case of *K v Bundesasylamt*<sup>5</sup> should, therefore, be considered in this context because the Court ruled that Article 15.2 applies even where the family members or dependent relatives are in the same Member State (provided that there is dependency). This judgement has affected the application of Article 15.2 and Article 3.2 in Sweden. In 2012, Sweden received the request in seventeen cases from other Member States to assume responsibility for an asylum application under Article 15, of which eleven were accepted for transfer to Sweden. Sweden requested other States to assume responsibility for examining the asylum application on the basis of Article 15 Dublin Regulation in eight cases, of which one case was accepted. It should be noted that the statistics include both Article 15.1 and Article 15.2 Dublin Regulation, since it is not possible to distinguish between these different grounds when the request is recorded in the single European electronic system, DubliNet. The DubliNet statistics also show that the Dublin Unit used Article 15 Dublin Regulation in an additional 10 cases after the CJEU judgment. Regarding the application of Article 3.2 Dublin Regulation there are no official statistics available, but in 2012 27 cases were taken over by Sweden with reference to Article 3.2<sup>6</sup>. Thus, a total of 37 cases were assessed in Sweden in application of Articles 3.2 and 15 where persons were on Swedish territory and another 11 persons have been accepted in other Member States under Article 15. So far in 2013 14 cases have been taken over by Sweden including nine with reference to Article 15, and five with reference to Article 3.2. In most cases Articles 3.2. and 15 Dublin Regulation are applied because of family reasons or health reasons.

Most Dublin transfers take place on a voluntary basis. However a considerable number abscond not least unaccompanied children who refuse to return to Italy, Malta or Hungary. Asylum seekers are not detained when notified of the decision of transfer to another EU Member State under the Dublin Regulation.

There are information sheets produced by the Migration Board in a number of languages outlining the

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<sup>5</sup> Court of Justice of the European Union, Case C-245/11, *K v Bundesasylamt*, Judgment, Grand Chamber, 6 November 2012.

<sup>6</sup> E-mail from Dublin expert at the Migration Board.

mechanisms of the Dublin Regulation. The asylum seeker receives a copy of these and later a copy of the acceptance by the other Member state. The asylum seeker is informed that a request is being made and about the evidence the request is based on.

Information is available for guardians of unaccompanied children regarding the Dublin procedure through the NGO FARR (The Swedish Network of Refugee Support Groups) which explains the system and indicates what measures they can take as representatives of the child when lodging an appeal on their behalf. Some guardians have even taken cases to the European Court of Human Rights in Strasbourg and obtained Rule 39 decisions.<sup>7</sup>

## Appeal

### Indicators:

- Does the law provide for an appeal against the decision in the Dublin procedure:  
 Yes  No
  - o if yes, is the appeal  judicial  administrative
  - o If yes, is it suspensive  Yes  No
- Average delay for the appeal body to make a decision:  
67% dealt with within 4 months. 90% cases dealt with within 7,7 months. Gothenburg court 5, 8 months, Malmö 6.3 months, Stockholm 9.8 months

In Dublin cases there is no legal counsel appointed so the asylum seeker must either appeal alone or seek the support of friends or NGOs. The appeals procedure is not different from the appeal system that applies in the regular procedure except for the lack of suspensive effect. Moreover, appeals in Dublin cases are often expedited quickly by the Migration Court and the Migration Court of Appeal. Occasionally some of the Courts will take into account the reception facilities of the destination country but this factor alone is not sufficient for the appeal to be successful. The personal circumstances must be taken into account as well. The appeal body does not take into account the recognition rates in the responsible member state when reviewing the Dublin decision.

## Personal Interview

### Indicators:

- Is a personal interview of the asylum seeker conducted in most cases in practice in the Dublin procedure?  Yes  No
- If so, are interpreters available in practice, for interviews?  Yes  No

According to a guideline decision by the Migration Court of Appeal<sup>8</sup> all Dublin cases are subject to a personal interview conducted by the Migration Board through an interpreter but without the presence of legal counsel. However in the case of an unaccompanied child the guardian is present. The interview does not go into the asylum grounds in any detail but there is a brief outline of flight reasons made in most of the interview documentation. Questions are asked about relatives in other EU countries, previous stays in EU countries, the health condition of the applicant, any objections to being sent to the responsible EU Member State, attitude towards leaving voluntarily. A transcript of the interview is made

<sup>7</sup> See e.g. *H.Y. v Sweden*, Application no. 32314/12, Communicated case, 25 June 2012, available [here](#); and *M.A. v Sweden*, Application no. 28361/12, Communicated case, 16 May 2012, available [here](#).

<sup>8</sup> Migration Court of Appeal MIG 2007:4, UM 607-06, 22 January 2007.

but not normally communicated to the asylum seeker since it is only in Swedish. If there are close relatives in another EU country Swedish authorities take no action to inform that country of the presence of a relative but await a request from the other country regarding the desirability of family reunification.

### Legal assistance

#### Indicators:

- Do asylum seekers have access to free legal assistance at the first instance in the Dublin procedure in practice?  Yes  not always/with difficulty  No
- Do asylum seekers have access to free legal assistance in the appeal procedure against a Dublin decision?  Yes  always/with difficulty  No

The Migration Court of Appeal issued a guideline decision in 2008 stating that no legal counsel should be appointed in Dublin cases.<sup>9</sup> In reality applicants who so wish either lodge an appeal themselves or with the help of friends. In many cases no appeal is lodged. Occasionally NGOs intervene as well as guardians of unaccompanied children.

### Suspension of transfers

#### Indicator:

- Are Dublin transfers systematically suspended as a matter of policy or as a matter of jurisprudence to one or more countries?  Yes  No
  - o If yes, to which country/countries? Greece

All transfers to Greece are suspended if a person has not been provided with protection status. About 400 cases for which Malta was responsible, according to the Swedish interpretation of the Dublin Regulation, were not accepted by Malta and Sweden subsequently took responsibility for examining these cases. A few individual cases have been suspended regarding transfers to Italy and in relation to unaccompanied children based on a request from the European Court of Human Rights (ECtHR) in accordance with Rule 39 of the ECtHR Rules of Procedure and Evidence. These cases are still pending<sup>10</sup>.

Sometimes transfers can be suspended based on the individual circumstances of the case. Sometimes this decision is made by a court other times by the Migration Board as the result of a subsequent application. Currently the Migration Board is planning to visit Italy to check in detail the reception facilities for unaccompanied children after a series of media articles depicting the fate of previously expelled children.<sup>11</sup>

## 4. Admissibility procedures

There is no admissibility procedure in Sweden

<sup>9</sup> MIG 2008:7 case UM 13-08, 26 February 2008: "En migrationsdomstol saknar laga grund för att förordna ett offentligt biträde i mål om överföring enligt Dublinförordningen" (A Migration Court does not have legal grounds for appointing legal counsel in cases concerning transfers according to the Dublin Regulation).

<sup>10</sup> *H.Y. v Sweden*, Application no. 32314/12, Communicated case, 25 June 2012, available [here](#); and *M.A. v Sweden*, Application no. 28361/12, Communicated case, 16 May 2012, available [here](#).

<sup>11</sup> See Kyrkans Tidning newspaper's article series (in [Swedish](#)).

## 5. Border procedure (border and transit zones)

There is no border procedure in Sweden

## 6. Accelerated procedures

### *General (scope, grounds for accelerated procedures, time limits)*

Chapter 8 Section 6 of the Swedish Aliens Act states:

“The Swedish Migration Board may rule that the Board’s order to refuse entry under Section 4, first paragraph be enforced even if it has not become final and non-appealable (refusal of entry with immediate effect, if it is obvious that there are no grounds for asylum and that a residence permit is not to be granted on any other grounds”.

A legal instruction issued by the head of the legal unit for the Migration Board in 2012<sup>12</sup> established that an expulsion with immediate effect should be considered in the following cases:

- the provision of false information in all essential elements;
- the application is unrelated to the right of asylum;
- manifestly insufficient grounds for asylum; and
- newly born children in some cases, if the parent(s) have already been issued with a transfer decision

The time limit for a decision is three months. If the time limit has not been respected the case will be dealt with by regular procedure. The Migration Appeals Court noted in its decision MIG 2006:7 that the requirement "manifestly" involves being able to make a clear assessment regarding the right to a permit that can be made without any further examination. The assessment should not be too schematic by being based for instance only on the circumstance that the applicant has a certain nationality to which normally asylum is not being granted. The assessment of "manifestly" must always be based on the circumstances of the individual case.

There is a basis in law<sup>13</sup> for handling manifestly well-founded cases in the accelerated procedure. A case is considered manifestly unfounded if there are no asylum grounds and when no permit can be granted on any other grounds.

It is the Migration Board that deals with applications under this procedure, appeals are dealt with by the courts but only if the applicant is still present in the country.

In 2012 there were 9160 cases deemed as manifestly unfounded of which 3045 were Dublin cases, 3045 to be returned to their home country, 12 with an immediately enforceable refusal of entry after previously being expelled with no right to return and 55 persons who were sent to a third country. Of these 1793 were Somalis (Dublin in the main) 1516 citizens of Serbia, 416 Eritreans (Dublin) 921 Bosnians and 700 from Afghanistan (Dublin)

In 2013 up to March the total is 2798 cases of which 2379 are Dublin cases and 409 cases to be returned to the home country. In the latter Serbian citizens are the largest group, 155, followed by Macedonians, 58, Albanians 53 and Bosnians 39.

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<sup>12</sup> Migration Board, Legal Instructions, RCI 03/2012: “Rättschefens rättsliga ställningstagande angående avvisning med omedelbar verkställighet enligt 8 kap. 6 § utlänningslagen.” (Legal instruction from the Head of the Legal Unit regarding the expulsion with immediate enforcement under Chapter 8. 6 § Aliens Law).

<sup>13</sup> Chapter 8, Section 6 and Chapter 12, Section 7 of the Aliens Act.

## Appeal

### Indicators:

- Does the law provide for an appeal against a decision taken in an accelerated procedure?  
 Yes  No
  - o if yes, is the appeal:  judicial  administrative
  - o If yes, is it suspensive?  Yes  No

There is no difference compared with the regular procedure. The same time limits apply, i.e. within three weeks after the decision is communicated, but there is no suspensive effect. Written information is provided in Swedish regarding the right to appeal but when the decision is communicated to the applicant at the Migration Board there is an interpreter available usually by phone who can convey this information in the language of the applicant or a language understood by the applicant. An appeal can be lodged by the applicant in their own language but for practical reasons with some indication in Swedish or English as to the nature of the reasons. In a regular procedure an appeal is expected to be lodged in Swedish by the appointed lawyer but where no legal assistance is available the Migration Board has a responsibility to ascertain the general content of a submission in a language other than Swedish and its relevance as a basis of an appeal. This does not mean that all the contents need to be translated in detail before a decision can be made. The appeal is formally addressed to the Migration Court but is sent first to the Migration Board which has the legal right to review its decision based on any new evidence presented. If the Migration court does not change its decision the appeal is forwarded to the Migration Court which can independently decide if further translation is necessary. In the meantime the applicant can be removed by the police in which case the appeal, if ever made, is abandoned.

## Personal Interview

### Indicators:

- Is a personal interview of the asylum seeker conducted in most cases in practice in an accelerated procedure?  Yes  No
  - o If yes, is the personal interview limited to questions relating to nationality, identity and travel route?  Yes  No
  - o If so, are interpreters available in practice, for interviews?  Yes  No
- Are personal interviews ever conducted through video conferencing?  Frequently  Rarely  Never

A personal interview is mandatory and this has been confirmed in a guideline decision<sup>14</sup> of the Migration Court of Appeal. There are no differences in the way the interview is carried out compared with the regular procedure apart from there not being a legal counsel present. Amnesty International's Swedish section has produced a critical report in 2011 on the handling of manifestly unfounded applications in relation to Roma applicants. Amnesty found that the procedure did not live up to the international requirements and stated that legal counsel should be appointed to guarantee legal safeguards<sup>15</sup>

<sup>14</sup> Migration Court of Appeal MIG 2007:4, UM 607-06, 22 January 2007.

<sup>15</sup> Amnesty International, "Roma i Asylprocessen" (Roma in the Asylum Procedure), May 2011.

## Legal assistance

### Indicators:

- Do asylum seekers have access to free legal assistance at first instance in accelerated procedures in practice?  
 Yes       not always/with difficulty       No
- Do asylum seekers have access to free legal assistance in the appeal procedure against a decision taken under an accelerated procedure?  
 Yes       not always/with difficulty       No

If the court is of the opinion that the case is not manifestly unfounded then the court orders a stay in the expulsion order and legal counsel will be appointed. Such a case is referred back to the first instance.

## C. Information for asylum seekers and access to NGOs and UNHCR

### Indicators:

- Is sufficient information provided to asylum seekers on the procedures in practice?       Yes       not always/with difficulty       No
- Is sufficient information provided to asylum seekers on their rights and obligations in practice?  
 Yes       not always/with difficulty       No
- Do asylum seekers in detention centres have effective access to NGOs and UNHCR if they wish so in practice?       Yes       not always/with difficulty       No
- Do asylum seekers accommodated in remote locations on the territory (excluding borders) have effective access to NGOs and UNHCR if they wish so in practice?  
 Yes       not always/with difficulty       No

When an asylum application has been rejected, and the decision is final and non-appealable, there is a possibility, if new circumstances arise, for these to be considered under the grounds of “impediments to enforcement” by the Migration Board only according to chapter 12 section 18 of the Swedish Aliens Act and also by the Migration Court if new circumstances refer to grounds in section 19 of the same chapter. Section 19 deals with new grounds for protection and not humanitarian grounds or practical problems in enforcing expulsion and therefore a negative decision is appealable. Submissions are in writing and an oral hearing rarely takes place. There is no limitation in the number of subsequent applications that can be submitted but there have to be new grounds. There is no free legal assistance to submit an application but if the application is admitted for re-examination by the Migration Board (or through a stay in the expulsion order at the court level if the Migration Board decision is appealed in accordance with chapter 12 section 19 of the Swedish Aliens Act) legal counsel can be appointed.

Chapter 12 sections 1 and 2 of the Swedish Aliens Act state that the refusal of entry and expulsion of an alien may never be enforced to a country where there is fair reason to assume that:

- the alien would be in danger there of suffering the death penalty or being subjected to corporal punishment, torture or other inhuman or degrading treatment or punishment or
- the alien is not protected in the country from being sent on to a country in which the alien would be in such danger.

The refusal of entry and expulsion of an alien may not be enforced to a country

- if the alien risks being subjected to persecution in that country or
- if the alien is not protected in the country from being sent on to a country in which the alien would be at such risk.

#### *Section 18*

If, in a case concerning the enforcement of a refusal-of-entry or expulsion order that has become final and non-appealable, new circumstances come to light that mean that

1. there is an impediment to enforcement under Section 1, 2 or 3,
2. there is reason to assume that the intended country of return will not be willing to accept the alien or
3. there are medical or other special grounds why the order should not be enforced, the Swedish Migration Board may grant a permanent residence permit if the impediment is of a lasting nature.

If there is only a temporary impediment to enforcement, the Board may grant a temporary residence permit. The Swedish Migration Board may also order a stay of enforcement.

#### *Section 19*

If, in a case concerning the enforcement of a refusal-of-entry or expulsion order that has become final and non-appealable, an alien invokes new circumstances

1. that can be assumed to constitute a lasting impediment to enforcement referred to in Section 1, 2 or 3, and
2. these circumstances could not previously have been invoked by the alien or the alien shows a valid excuse for not previously having invoked these circumstances, the Swedish Migration Board shall, if a residence permit cannot be granted under Section 18, re-examine the question of a residence permit.
3. If the conditions set out in the first paragraph are not fulfilled, the Swedish Migration Board shall decide not to grant a re-examination.

The refusal-of-entry or expulsion order may not be enforced before the Swedish Migration Board has decided on the question of whether there will be a re-examination or, if a re-examination is granted, before the question of a residence permit has been settled by a decision that has become final and non-appealable.

Decisions made according to Chapter 12 section 18 cannot be appealed before the Migration Court and are final. Decisions made either not to grant re-examination, or to refuse an application on substantial grounds according to Chapter 12 section 19, can be appealed to the Migration Court and further to the Migration Court of Appeal. A separate decision to stay the removal order must be made by the Court to prevent the expulsion order from being carried out in the meantime. An appeal must be lodged within 21 days of receiving a negative decision

In 2012, 13 112 subsequent applications were submitted. Decisions were taken in 12 943 cases. 1520 cases were approved.

One of the principles of law relating to subsequent applications requires that the individual has a valid reason for not having presented the circumstances earlier if they were already known at that point in time. This requirement can in practice undermine the protection of Article 3 of the European Convention on Human Rights, which is absolute. In Swedish practice cases involving a real risk of treatment mentioned in Article 3 ECHR can be ignored if the applicant is deemed not to have had valid reasons for not presenting the facts earlier. This aspect of the law was criticised by legal expert and former judge Bertil Hübnette in the official review of the Aliens Act in 2009 but the matter has yet to be addressed.<sup>16</sup>

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<sup>16</sup> Department of Justice, [Utvärderingsutredningen. Den nya migrationsprocessen](#) (Evaluation Survey. The new migration process), SOU 2009:56, June 2009

Asylum seekers do not have access to free legal assistance for making subsequent applications but can approach NGOs for advice. The procedure is written and complex with statistically little chance of changing the negative decision. They have no access to free interpretation. Some NGOs have cut back their services to asylum seekers while others have a current moratorium on new cases so many asylum seekers are left to their own devices.

## D. Subsequent applications

### Indicators:

- Is a removal order suspended during the examination of a first subsequent application?
  - o At first instance  Yes  No
  - o At the appeal stage  Yes  No
- Is a removal order suspended during the examination of a second, third, subsequent application?
  - o At first instance  Yes  No
  - o At the appeal stage  Yes  No

When an asylum application has been rejected, and the decision is final and non-appealable, there is a possibility, if new circumstances arise, for these to be considered under the grounds of “impediments to enforcement” by the Migration Board only according to chapter 12 section 18 of the Swedish Aliens Act and also by the Migration Court if new circumstances refer to grounds in section 19 of the same chapter. Section 19 deals with new grounds for protection and not humanitarian grounds or practical problems in enforcing expulsion and therefore a negative decision is appealable. Submissions are in writing and an oral hearing rarely takes place. There is no limitation in the number of subsequent applications that can be submitted but there have to be new grounds. There is no free legal assistance to submit an application but if the application is admitted for re-examination by the Migration Board (or through a stay in the expulsion order at the court level if the Migration Board decision is appealed in accordance with chapter 12 section 19 of the Swedish Aliens Act) legal counsel can be appointed.

Chapter 12 sections 1 and 2 of the Swedish Aliens Act state that the refusal of entry and expulsion of an alien may never be enforced to a country where there is fair reason to assume that:

- the alien would be in danger there of suffering the death penalty or being subjected to corporal punishment, torture or other inhuman or degrading treatment or punishment or
- the alien is not protected in the country from being sent on to a country in which the alien would be in such danger.

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- if the alien is not protected in the country from being sent on to a country in which the alien would be at such risk.

### Section 18

If, in a case concerning the enforcement of a refusal-of-entry or expulsion order that has become final and non-appealable, new circumstances come to light that mean that

1. there is an impediment to enforcement under Section 1, 2 or 3,
2. there is reason to assume that the intended country of return will not be willing to accept the alien or
3. there are medical or other special grounds why the order should not be enforced, the Swedish Migration Board may grant a permanent residence permit if the impediment is of a lasting nature.

If there is only a temporary impediment to enforcement, the Board may grant a temporary residence permit. The Swedish Migration Board may also order a stay of enforcement.

#### *Section 19*

If, in a case concerning the enforcement of a refusal-of-entry or expulsion order that has become final and non-appealable, an alien invokes new circumstances

4. that can be assumed to constitute a lasting impediment to enforcement referred to in Section 1, 2 or 3, and
5. these circumstances could not previously have been invoked by the alien or the alien shows a valid excuse for not previously having invoked these circumstances, the Swedish Migration Board shall, if a residence permit cannot be granted under Section 18, re-examine the question of a residence permit.
6. If the conditions set out in the first paragraph are not fulfilled, the Swedish Migration Board shall decide not to grant a re-examination.

The refusal-of-entry or expulsion order may not be enforced before the Swedish Migration Board has decided on the question of whether there will be a re-examination or, if a re-examination is granted, before the question of a residence permit has been settled by a decision that has become final and non-appealable.

Decisions made according to Chapter 12 section 18 cannot be appealed before the Migration Court and are final. Decisions made either not to grant re-examination, or to refuse an application on substantial grounds according to Chapter 12 section 19, can be appealed to the Migration Court and further to the Migration Court of Appeal. A separate decision to stay the removal order must be made by the Court to prevent the expulsion order from being carried out in the meantime. An appeal must be lodged within 21 days of receiving a negative decision

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<sup>17</sup> Department of Justice, [Utvärderingsutredningen. Den nya migrationsprocessen](#) (Evaluation Survey. The new migration process), SOU 2009:56, June 2009

## E. Guarantees for vulnerable groups of asylum seekers (children, traumatised persons, survivors of torture)

### 1. Special Procedural guarantees

#### Indicators:

- Is there a specific identification mechanism in place to systematically identify vulnerable asylum seekers?     Yes     No     Yes, but only for some categories
- Are there special procedural arrangements/guarantees for vulnerable people?     Yes     No     Yes, but only for some categories

The legal framework with regards to the needs of vulnerable asylum seekers is part of the 1994 law on the reception of asylum seekers. The 1994 law on the reception of asylum seekers provides the legal framework and mentions briefly providing for the needs of vulnerable groups. The issue of special needs of vulnerable asylum seeker is mainstreamed in the training of caseworkers. However, the Migration Board does not have a special unit dealing with vulnerable groups but accommodates their needs in the general reception system. All asylum seekers are offered health screening and at least 50% take advantage of this. This is particularly important in relation to survivors of torture and traumatised persons. However because of confidentiality rules this information is not automatically available to caseworkers. The legal counsel can however request access to this information with the permission of the applicant.

Applicants who are mentally handicapped<sup>18</sup> and unable to act as a legally competent person must have a guardian appointed by the County Court and no investigation shall take place until such a person is appointed.

If special reports are needed to verify trauma of various kinds the Migration Board can grant an extension from the normal procedure time to accommodate this need. However they tend to want to keep a tight schedule and can go on to process a case even if all the material is not available.

The Migration Board has developed training courses for case workers who interview children and those who have completed this training are designated as case workers especially for unaccompanied children.

Asylum seekers can either live in flats provided for by the Migration Board or with friends or relatives in private dwellings. Families are kept together but sometimes have to share a larger flat with others. The Board can only influence matters concerning the accommodation they themselves provide since they hold the contracts for the flats and can make demands on the owners regarding material conditions.

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<sup>18</sup> Migration Board, "Rättsligt ställningstagande angående handläggning av psykiskt funktionshinderades vuxnas ansökningar om uppehållstillstånd när det gäller förordnande av förvaltare eller god man" (Legal Counsel's Legal position on processing of applications submitted by mentally disabled adults and with regard to appointment of legal representatives or legal guardians), RCI 05/2012, 16 February 2012, available [here](#).

## 2. Use of medical reports

### Indicators:

- Does the legislation provide for the possibility of a medical report in support of the applicant's statements regarding past persecution or serious harm?  
 Yes                       Yes, but not in all cases                       No
- Are medical reports taken into account when assessing the credibility of the applicant's statements?     Yes                       No

The Swedish asylum procedure operates on the principle that any evidence can be admitted in support of an asylum claim; therefore, the law does not explicitly refer to the possibility of a medical certificate in support of the applicant's statement regarding past persecution or serious harm. As a result of the case *R.C v Sweden* at the European Court of Human Rights,<sup>19</sup> Sweden has been reminded of the obligation of its authorities to carry out a medical examination if there is an indication from an initial non-expert medical report that the applicant could have been a victim of torture. In such a case the Migration Board or the Migration Court is obliged to request an expert medical examination of the person and to pay for those costs. Medical reports can play an important role in assessing the credibility of the applicant but the certificate has to be formulated in accordance with the rules of the National Social Welfare Board and be signed by an expert in the field. Medical reports may also be requested and submitted by the asylum seeker or their legal counsel at any stage of the procedure. If the medical report plays an important role in the outcome of the case then the costs may be reimbursed by the Court or the Migration Board. The Migration Board has recently published guideline notes drafted by its legal department outlining when medical reports should be requested by the authority, e.g. when there is evidence of torture.<sup>20</sup> These guidelines state that where asylum seekers invoke injuries resulting from having been subjected to torture or other egregious treatment on the basis of which international protection can be granted and submit a medical certificate in support, the latter should be paid out of public funds. Exceptions may be made in the following cases:

- injuries are not disputed;
- the Migration Board will grant the applicant's refugee status or alternative protection status;
- the applicant's narrative contains extensive credibility gaps;
- the situation in their country of origin has changed to such an extent that the previous risks of torture and other egregious treatment on the basis of which international protection can be granted is considered to no longer exist.

If the Migration Board finds that further investigation of the physical and / or psychological damage should not be at public expenditure, the applicant should be given reasonable time to submit further investigations at their own expense.

<sup>19</sup> European Court on Human Rights, *R.C. v Sweden*, Application no. 41827/07, Judgement, 9 June 2010, available [here](#).

<sup>20</sup> Migration Board, "Rättsligt ställningstagande angående medicinska utredningar av åberopade skador" (*Legal guidance on medical investigations and reported trauma*), RCI 20/2012, 05 July 2012, available [here](#).

### 3. Age assessment and legal representation of unaccompanied children

#### Indicators:

- Does the law provide for an identification mechanism for unaccompanied children?  
 Yes       No
- Does the law provide for the appointment of a representative to all unaccompanied children?  
 Yes       No

If the age of an unaccompanied child is in doubt and establishing it is necessary for the proper handling of the application then the Migration Board can request that an age assessment be made using skeletal or dental evidence. This is not stipulated in law but is part of the practice directions of the Migration Board.<sup>21</sup> There are also guidelines from the National Social Welfare agency (*Socialstyrelsen*) on both the use and interpretation of results of age assessments.<sup>22</sup> The Migration Court of Appeal has also handed down a decision on the use and validity of such methods<sup>23</sup>. No single method can be exact enough to establish the exact age of a person in their late teens. A more holistic approach is necessary in which all the factors must be weighed in by a paediatric specialist. Where an individual applicant refuses to participate in a medical investigation this in itself is not sufficient to assume that the applicant is not a child.

The burden of proof regarding age is on the applicant, who can provide supporting documents where available. Where these are not available the age stated at the time of application is noted down. If doubts arise regarding the applicant's real age based on observation of their behaviour then the claimed age can be altered in the records and the person is transferred to the procedure for adults. In other cases the statements of the individual are examined and questions can be asked in order to try to determine the person's real age. However it is not the duty of the Migration Board to establish a specific age and the benefit of the doubt can be accorded to the asylum seeker. Age assessment is also important if it is uncertain whether the applicant is older than 14 years of age. This has consequences regarding the possibility of taking and checking fingerprints and hence of finding another Member State who might be responsible for examining the asylum request.

All unaccompanied children have the right to be represented by a guardian as soon as they have lodged an asylum claim. The law also requires that legal counsel be appointed promptly. Those guardians are citizens of good standing with a high moral character and come from all walks of life.

Every municipality (which are responsible for the reception of unaccompanied children) have a "chief guardian" (*överförmyndare*) whose role is to assess a person's suitability to be a guardian. General knowledge of managing personal finances and common sense combined with a personal and social involvement are considered appropriate qualities.

There is no time limit for their appointment. They are reimbursed for their costs and also receive a nominal fee. No requirements with regards to formal education or specialist knowledge in the field of asylum are imposed before being eligible for appointment. All guardians are appointed by the chief guardian in the municipality and in many cases are more and more frequently offered basic training courses. There are also national organisations for guardians that also organise courses and exchange views and experiences. Both established NGOs in the field of asylum and the Migration Board offer courses for guardians. With the arrival of an increasing number of unaccompanied children in Sweden

<sup>21</sup> See Migration Board, "Rättsligt ställningstagande angående åldersbedömning" (*Legal guidance on Age Determination*), RCI 19/2012, available [here](#).

<sup>22</sup> National Social Welfare agency, "Medicinsk åldersbedömning för barn i övre tonåren" (*Medical age assessment of children in their late teens*), Document no. 31156/2011, 26 June 2012, available [here](#).

<sup>23</sup> UM 6147-11, 13 October 2011.

the need for guardians is increasing. In order to maintain a certain quality one national organisation of guardians is suggesting there should be a cap placed on the number of children assigned to one guardian.

No differences are made between Dublin cases, manifestly unfounded cases or regular procedure cases regarding the right to a guardian. Every unaccompanied child is assigned a guardian but should an age assessment lead to the person being considered an adult then the assignment ceases.

In 2012, 3578 persons sought asylum as unaccompanied children with 54% coming from Afghanistan.

## F. The safe country concepts

### Indicators:

- Does national legislation allow for the use of safe country of origin concept in the asylum procedure?  Yes  No
- Does national legislation allow for the use of safe third country concept in the asylum procedure?  Yes  No
- Does national legislation allow for the use of first country of asylum concept in the asylum procedure?  Yes  No
- Is there a list of safe countries of origin?  Yes  No
- Is the safe country of origin concept used in practice?  Yes  No
- Is the safe third country concept used in practice?  Yes  No

The safe country concepts are not applicable in Sweden.

## G. Treatment of specific nationalities

Syrians, Eritreans and to some extent Somali cases as well as unaccompanied children are treated in an expedited procedure and this has led to an acceptance rate that is extremely high in current statistics with around 52 % approved cases in February 2013.

The acceptance rate has varied from 25 to 35% for regular cases in recent years. Persons obtaining positive decisions can be placed in municipalities as immigrants more quickly. Currently many apartments rented by the Migration Board are occupied by persons with legally enforceable expulsion orders (around 9000) and persons with permanent residence permits awaiting a place as an immigrant in a municipality (around 7000) so giving priority to manifestly well-founded cases eases the logistical pressure. The police have been instructed by the government to increase their efforts to expel persons with legally enforceable decisions still present in Migration Board accommodation in order to make more accommodation available to new arrivals.

With regard to Somalia, Sweden has changed its policy recently by modifying its assessment of southern Somalia from an area of internal armed conflict to an area where there is a high level of conflict failing to reach the necessary intensity level of a civil war. In a situation of a widespread internal armed conflict individuals need not prove individual grounds but only that they originate from that area. However, due to the changed assessment of the situation in Somalia Somali asylum seekers now need to prove that they have been individually affected in order to be granted a residence permit. Therefore it is expected that the high acceptance rate for Somalis is likely to drop somewhat.

Many applicants from the Balkan countries have their cases treated as manifestly unfounded even if they are individually assessed and decision making resources are diverted to this group when there is a large influx in order not to miss the three month time limit for dealing with a case as manifestly unfounded. Even though Sweden only registers the nationality of asylum seekers and not ethnicity, many asylum seekers in this group are of Roma origin. Similar procedures are followed with regard to asylum applications from Mongolia.

Access to the territory and to the asylum procedures: Sweden is one of the main destinations of Syrian asylum seekers, with an average of around 1,800 people per week seeking asylum in Sweden since September 2013<sup>24</sup>. In November 2013 the Swedish Migration Board (SMB) indicated that more asylum seekers will come to Sweden this year and the next than previously foreseen, with an average estimate of 60,000 Syrian asylum seekers in 2014.

In 2012 and the beginning of 2013 a very high overall protection rate in relation to Syrian nationals and stateless persons was recorded in Sweden. In September 2013 the government announced it will give asylum to all Syrian refugees who apply for protection<sup>25</sup>.

Even though the Swedish Migration Board (SMB) has decided to grant a permanent residence permit to all those Syrians in Sweden who already have a temporary residence permit<sup>26</sup>, this improvement does not mean that applications for asylum can be handed in at a Swedish Embassy abroad. An application for asylum has to be handed in by the applicant to an Application Unit in-person in Sweden. The new decision will also not affect the possibility to get a visa to Sweden<sup>27</sup>.

Examination of asylum applications: In 2013 (prior to the positive change of policy in September 2013, according to which asylum will be granted to all Syrian asylum seekers who apply for protection), 80% of Syrian applications resulted in positive decisions. In 2012, only 1130 persons were recognised as refugees out of 4090 positive decisions (28%) and in the first quarter of 2013 only 21% of applications resulted in a refugee status.<sup>28</sup>

At present, the Swedish Migration Board gives priority to the processing of asylum applications submitted by Syrian refugees.<sup>29</sup> Until September 2013<sup>30</sup> the Swedish government had a policy of granting some Syrians refugee status with permanent residence permits and others subsidiary protection with three-year residence permits. The difference depended on an individual assessment of whether the applicant sought protection from personal persecution (refugee status) or general and indiscriminate violence (subsidiary protection). Prior to September 2013 when the practice changed, 2013 saw approximately half of the asylum-seekers from Syria (Syrian citizens and stateless people from Syria) granted permanent residence permits, and the other half three-year permits<sup>31</sup>. This was an exceptional policy for Sweden, as traditionally the tendency has been to grant permanent residence permits to all those who need protection.<sup>32</sup>

This policy has now changed following the new assessment of the situation in Syria by the SMB, according to which “the present safety situation in Syria is extreme and characterised by general violence”. Moreover, the Agency estimated that the conflict will continue for a long time ahead. The new

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<sup>24</sup> See Swedish Migration Board’s website for more information: [The conflict in Syria means more asylum seekers](#)

<sup>25</sup> See France 24 News, [Sweden grants blanket asylum to Syrian refugees](#), 03 September 2013.

<sup>26</sup> SMB [website](#) announcement.

<sup>27</sup> SMB [Website](#)

<sup>28</sup> Eurostat statistics, accessed on 25 September 2013

<sup>29</sup> AIDA National report: [Sweden](#)

<sup>30</sup> See the Swedish Migration Board’s website for more information: “[New judicial position on Syria opens up for a higher number of permanent residence permits](#)”

<sup>31</sup> See [the website of the Swedish Migration Board](#)

<sup>32</sup> AIDA National report: [Sweden](#)

policy of granting Syrians in need of international protection permanent residence permits allows them the right to family reunification with immediate family members (husband, wife, partner and children under 18 years of age).<sup>33</sup>

Dublin transfers: Syrian nationals benefit from the same procedure as beneficiaries of international protection of other nationalities. Sweden interprets the Dublin Regulation rules rather strictly and respects the hierarchy established by the Regulation. The appeals procedure does not differ from the appeal system that applies in the regular procedure, except for the lack of suspensive effect. Occasionally the courts take into account the reception facilities of the destination country but this factor alone is not sufficient for the appeal to be successful. The appeal bodies consider the personal circumstances of the individual, but not recognition rates in the responsible member state, when reviewing the Dublin decision.<sup>34</sup>

Family reunification: According to the SMB, spouses, partners and children below the age of 18 of Syrians in Sweden can get a residence permit for family reunification in Sweden. Although other relatives are not normally granted residence permits, exceptions apply where there is 'a special relationship of dependence ... as a result of which you cannot live separately ... which was in force in Syria'. This exception may apply to children above the age of 18, or single parents, for example. The need for financial support or the serious situation in Syria is not a sufficient reason for granting an exceptional residence permit to a relative for family reunification<sup>35</sup>.

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<sup>33</sup> See the Swedish Migration Board's [website](#) for more information.

<sup>34</sup> Please see the [AIDA National Country](#) Report: Sweden for more information.

<sup>35</sup> See the Swedish Migration Board's [website](#) for more information.

## Reception Conditions

### A. Access and forms of reception conditions

#### 1. Criteria and restrictions to access reception conditions

##### Indicators:

- Are asylum seekers entitled to material reception conditions according to national legislation :
  - o During the accelerated procedure?  
 Yes                       Yes, but limited to reduced material conditions                       No
  - o During the regular procedure:  
 Yes                       Yes, but limited to reduced material conditions                       No
  - o during the Dublin procedure:  
 Yes                       Yes, but limited to reduced material conditions                       No
  - o During the appeal procedure (first appeal and onward appeal):  
 Yes                       Yes, but limited to reduced material conditions                       No
  - o In case of a subsequent application:  
 Yes                       Yes, but limited to reduced material conditions                       No
- Is there a requirement in the law that only asylum seekers who lack resources are entitled to material reception conditions?  Yes                       No

In Sweden all asylum applicants have access to the benefits of the reception system. If they have their own resources they must use these first. This is established at the initial interview with a reception officer of the Migration Board at the moment when the asylum seeker lodges the asylum application.

#### 2. Forms and levels of material reception conditions

##### Indicators:

- Amount of the financial allowance/vouchers granted to asylum seekers on 31/12/2012 (per month, in original currency and in euros):

At accommodation centres where food is provided free of charge, the daily allowance is:

- SEK 24 (€3) per day for single adults
- SEK 19 (€2.50) per person per day for adults sharing accommodation
- SEK 12 (€1.50) per day for a child up to and including the age of 17 years (from the third child onwards the allowance is reduced by half).

The daily allowance, which should be enough to buy food, is as follows:

- SEK 71 (€8) per day for single adults
- SEK 61 (€7) per person per day for adults sharing accommodation
- SEK 37 (€4.50) per day for children up to the age of three years
- SEK 43 (€5) per day for children aged 4-10 years
- SEK 50 (€5.50) per day for children aged 11-17 years (from the third child onwards the allowance is reduced by half).

The level of asylum support was set in 1994 and has not been raised or adjusted since. Some NGOs are campaigning now for these levels to be adjusted to the increase in living cost and for the elimination of discrimination against third and subsequent children and the amount of money that is made available.

## *Housing*

Housing offered by the Migration Board is either in an apartment, in a normal housing area or at a centre. Asylum seekers can choose to live at a centre but in that case they will need to move to a town where the Migration Board can offer them a place.

If they have money of their own they must pay for the accommodation themselves. If not the centre accommodation is free. Single persons need to share a room. A family can have its own room but must expect to share an apartment with other people. It is possible that asylum seekers are moved around within the centre or to another centre during the processing period.

In case an asylum seeker is granted a residence permit, and is entitled to an introduction plan, the Public Employment Service can in connection with the introduction interview, assist them to get housing in a municipality.

In case asylum seekers are granted a residence permit on the basis of employment, they must arrange their own housing. If asylum seekers choose to arrange themselves for a place to live they are as a rule personally responsible for the cost of the accommodation. If for any reason they cannot continue living in accommodation they have arranged themselves, it is possible for them to move to one of the Migration Board's centres that has capacity.

## *Allowance*

Apart from food, the daily allowance should be sufficient to pay for: clothes and shoes, medical care and medicine, dental care, toiletries, other consumables and leisure activities. If asylum seekers are granted a daily allowance by the Migration Board they receive a bank card where the money is deposited.

Asylum seekers can apply for extra allowances for expenses that are necessary for a minimum living standard, such as cost of winter clothing, glasses, supplements, handicap equipment and infant equipment.

The special contribution in some cases may be submitted for charges for medical, pharmaceutical and dental costs, which are partly subsidised.

The relatively low level of the basic allowance means that most asylum seekers cannot buy new articles but turn to second-hand stores to provide for their clothing and other needs

The forms of accommodation for housing asylum seekers that are preferred are individual flats that are rented in most municipalities in Sweden. Over 65% of asylum seekers live in such accommodation currently while around 35% arrange private accommodation for which they receive no special rent allowance. The rent is free in accommodation provided for by the Migration Board as well as electricity and water. When there is a high influx the Migration Board has short term contracts with hotels, camping sites, holiday villages and the like serving as temporary accommodation centres. There the material and living conditions can vary and are in general not on a par with the regular accommodation. The Migration Board phases out this temporary housing as the influx of new asylum seekers subsides or as accommodation is vacated because persons with expulsion orders leave the country. Asylum seekers who can no longer cope with living in private accommodation have a right to request a place with the Migration Board but cannot choose where they will be placed. Asylum seekers can also move from Migration Board accommodation to private accommodation. In both those situations the allowance to the asylum seekers is the same.

Persons at any stage in the procedure are housed under these conditions. The needs of vulnerable asylum seekers are taken into account in designating suitable accommodation and where needed they are placed in the vicinity of institutions that can provide expert care.

The allowance for asylum seekers is considerably lower than the allowance or Swedish nationals in need of help from social welfare, which covers similar areas of support. The following table illustrates this difference:

ASYLUM SEEKERS		PERSONS ON SOCIAL WELFARE
1 Adult	2130 kr (€252)	3880 kr (€450)
2 Adults	3660 kr (€433)	6360 kr (€753)
1 adult 1 child 2 yrs	3240 kr (€383)	5970 kr (€707)
1 adult 2 children 2/5	4530 kr (€536)	9080 kr (€1076)
2 adults 2 children 5/12	6160 kr (€730)	11630 kr (€1380)
2 adults 3 children 2/5/12	7020 kr (€831)	13830 kr (€1638)
2 adults 4 children 12/14/15/17	8160 kr (€966)	19450 kr (€2304)

Sources: *The National Social Welfare Board and the Migration Board.*

### 3. Types of accommodation

#### Indicators:

- Number of places in all the reception centres (both permanent and for first arrivals): 26663 (Feb 2013)
- Number of places in private accommodation: 14818 + 107 in other accommodation (children's homes where they can't be with their family for social or health reasons, safe houses for threatened women)
- Number of reception centres: 282<sup>36</sup>
- Are there instances of asylum seekers not having access to reception accommodation because of a shortage of places?  Yes  No
- What is, if available, the average length of stay of asylum seekers in the reception centres? 419 days
- Are unaccompanied children ever accommodated with adults in practice?  Yes  No

Housing offered by the Migration Board is either in an apartment, in a normal housing area or at a centre. Asylum seekers can choose to live at a centre but in that case they will need to move to a town where the Migration Board can offer them a place.

Occasionally unaccompanied children under 18 are accommodated in foster families, who might also be close relatives. These families and the material conditions under which they live have to be approved by the local social welfare office. Unaccompanied children are never accommodated with adults.

Single women are housed together with other single women or single mothers taking into account language and which part of the world they come from. Families are kept together.

Accommodation facilities can be problematic for LGBTI asylum seekers as they can end up experiencing harassment. However they can always request a transfer and also use a complaints mechanism within the Migration Board (Applicants' Ombudsman) or address their complaint to the Discrimination Ombudsman

<sup>36</sup> This is the number of municipalities where the Migration Board rents flats or other accommodation.

Private housing is extremely rarely used by the authorities but since there is a freedom to choose where to live as an asylum seeker private housing has played an important role. Around two years ago 60% were accommodated in private housing of their own choice, which can sometimes lead to serious overcrowding for the host families.

The Migration Board is responsible for the reception centres and for supervising the accommodation they provide in ordinary flats in regular residential areas and to assist the asylum seekers. The ordinary rules for the number of persons per room do not apply to asylum seekers so more people can live in a three-roomed flat than is regularly the case when municipal authorities designate accommodation for citizens. This does not mean serious overcrowding since the number of persons per room is two but living-rooms often double up as bedrooms.

#### 4. Reduction or withdrawal of reception conditions

*Indicators:*

- Does the legislation provide for the possibility to reduce material reception conditions?  
 Yes                       No
- Does the legislation provide for the possibility to withdraw material reception conditions?  
 Yes                               No

Reductions in the asylum seeker's allowance can be made for adults but not for children if they refuse to cooperate in the asylum procedure or refuse to respect an expulsion order. The lowest level of reduction is 24 SEK a day (€2.75) but the intermediary level of 42 SEK/day is the one most frequently used. They have the right to appeal these decisions to the county administrative court but appeals are almost always turned down. These reductions are phased and amount initially to 35-40% of the allowance as indicated in section 2 above. Some people whom Sweden is unable to expel can live at this level for many years. Currently there are almost 9000 persons in this situation. They also lose the right to work after a final decision is handed down in their case.

The right to impose reductions is set out in the law<sup>37</sup> Lack of cooperation means for example refusing to take measures to obtain identity documents or refusing to turn up to arranged appointments with the Migration Board.

#### 5. Access to reception centres by third parties

*Indicators:*

- Do family members, legal advisers, UNHCR and/or NGOs have access to reception centres?  
 Yes                       with limitations               No

Since most asylum seekers live in private flats there is no problem of access for any interested groups or individuals. The Swedish law on reception stipulates that information should be provided to all asylum seekers on organisations providing assistance to asylum seekers.

<sup>37</sup> Lag (1994:137) "om mottagande av asylsökande" (on the reception of asylum seekers) m.fl. (LMA), Förordning (1994:361) "om mottagande av asylsökande" (on the reception of asylum seekers) m.fl. (FMA).

## 6. Addressing special reception needs of vulnerable persons

### *Indicators:*

- Is there an assessment of special reception needs of vulnerable persons in practice?  Yes  No

The Migration Board has special flats available to accommodate the needs of people who are in wheelchairs. People with various forms of physical handicaps can have their needs assessed by the staff of the local municipality, who bases their assessments on the general rules for the population at large. The municipality makes recommendations regarding an individual's need for special care and the agreed costs are paid by the Migration Board. There is a contract with a Folk High School in Leksand to accommodate deaf asylum seekers. The Migration Board can also in cooperation with the police arrange safe homes for threatened individuals, frequently women. In these situations even the municipal social welfare authority can be involved.

There is no separate accommodation provided for traumatised persons. There are specific homes – for unaccompanied children where the municipality has the overall responsibility for the welfare of the children. Their needs are dealt with in accordance with the general legislation in this field.

The municipalities also have the responsibility for meeting the welfare needs of all children and can arrange for them to be sent either alone or with their family to a suitable residence where they can obtain expert help in relation to their problems.

## 7. Provision of information

Asylum seekers receive information with regard to the reception system for asylum seekers in Sweden, including with regard to housing and allowances at the initial interview at the Migration Board when they lodge their asylum application. Such information is provided by the reception officer of the Migration Board. The following information is provided:

“Housing offered by the Migration Board (accommodation centre) is either in an apartment in a normal housing area or at a centre. If you choose to live at a centre you will need to move to a town where we can offer you a place. If you have money of your own you pay for the accommodation yourself. If you do not have any money the centre accommodation is free. Single persons will need to share a room. A family can have its own room but must expect to share an apartment with other people. It could be that you need to move around within the centre or to another centre during the processing period. If you are granted a residence permit, and are entitled to an introduction plan, the Public Employment Service can in connection with your introduction interview, help you to get housing in a municipality. If you are granted a residence permit on the basis of employment, you must arrange your own housing. If you choose to arrange somewhere to live yourself you will as a rule be personally responsible for the cost of the accommodation. If for any reason you cannot remain living in accommodation you have arranged yourself, you can move to one of the Migration Board's centres where there is room for you. Contact the reception unit where you are registered for further information.

Apart from food, the daily allowance should be sufficient to pay for: clothes and shoes, medical care and medicine, dental care, toiletries, other consumables and leisure activities. If you are granted a daily allowance by the Migration Board you will receive a bank card where the money is deposited.”

This information is provided both orally and in writing. In general fellow countrymen or other asylum seekers inform each other of more detailed aspects. Each asylum seeker also has access to a reception officer of the Migration Board who can provide more detailed information. The number of languages

documents are available in can vary from 8 up to 21 (information on the bank card). The information on housing is available in Albanian, Arabic, Bosnian/Croatian/Serbian, Persian, Romani, Russian, Somali, and Tigrinja

## 8. Freedom of movement

There are no restrictions in law or practice to the freedom of movement of asylum seekers within Sweden. However if accommodation is requested from the Migration Board they are not free to choose their place of residence.

## B. Employment and education

### 1. Access to the labour market

#### *Indicators:*

- Does the legislation allow for access to the labour market for asylum seekers?  Yes  No
- If applicable, what is the time limit after which asylum seekers can access the labour market:  
The day after applying for asylum
- Are there restrictions to access employment in practice?  Yes  No

Asylum seekers can be exempt from a work permit if they are able to establish their identity through original documents or authorised copies. If they are not able to do this at the time of application for asylum they can do so later and in that case another decision will be made on their right to work. An asylum seeker is not granted a work permit but can be exempted from the need to have one and hence be allowed to work. This right lasts until a final decision on their asylum application is taken and can extend beyond that if the applicant cooperates in preparations to leave the country voluntarily. If the applicant refuses to cooperate then the right to work is discontinued. Persons who are unable to substantiate their identity are still allowed to be at workplaces for short periods of time (with a maximum of three months at one place) but this is only to enable them to gain some work experience for which they may not be remunerated.

Asylum seekers can generally not work in areas that require certified skills such as in the health care sector so their choice is limited in practice to the unskilled sector. They can continue to work during the appeals procedure. Jobs are not easy to get because of language requirements and the general labour market situation with high youth unemployment and a general unemployment rate of around 8%. Should an asylum seeker obtain a job offer at another place in Sweden then they can move there and get nominal support towards living costs of 350 (€40) SEK for a single person and 850 SEK (€100) for a family. Those who obtain jobs are able to improve their economic situation and possibly be able to switch from being an asylum seeker to a labour market immigrant if they manage to work 6 months before receiving a final negative decision at the second instance or after their appeal to the Migration Court of Appeal is refused. If their employer is at that stage able to offer a one year contract or longer then they must apply for permission to work in Sweden within two weeks of the final decision entering into force. A successful applicant must have a valid passport and will receive a temporary permit of at least one year and at most two. After four years on temporary permits a person who still has a job can then apply for a permanent residence permit. These temporary permits allow for family reunification and the right of the spouse to work.

The ability to switch from an asylum seeker to a labour migrant was introduced by the current government as part of its policy to develop labour migration of third country nationals to Sweden and to respond to situations where highly qualified persons amongst rejected asylum seekers with skills that Sweden needed and who had shown through work experience that they had the required proficiency and knowledge would have a chance to access the labour market. The fact that such a person has desired labour market skills does not in any way influence the assessment of the asylum grounds.

## 2. Access to education

### Indicators:

- Does the legislation provide for access to education for asylum seeking children?  
 Yes     No
- Are children able to access education in practice?     Yes     No

Asylum seeking children have full access to the Swedish school system and they are to a great extent integrated in regular schools. They are not covered by the law obliging children between the ages of 6 and 16 to attend school but have the right to attend, if they so wish. The right to go to school will also soon be confirmed in law for those children still present in Sweden with an expulsion order and who have absconded with their parents.

The children also have the right to lessons in their own mother tongue on a regular basis if there are more than five pupils with the same language in the area. Itinerant home language teachers are employed. Children between 16 and 19 often have to attend a preparatory course to improve their skills in Swedish and other core subjects before being able to access vocational education. But once they have gone through this preparatory phase they are not prohibited in theory from taking a vocational course. If a teenager begins a three year course at the age of 16 or 17 and is still in Sweden without a permit two years later they will be allowed to continue their course. However persons over 18 on arrival in Sweden have no access to secondary education.

Adults do not have general access to the education system as asylum seekers. For adults we have seen a worsening of provisions recently. Up to two years ago the Migration Board organised instruction in Swedish for asylum-seeking adults but this was discontinued in January 2012 as the Board had succeeded in curtailing the waiting period for their asylum decisions to 3-4 months and therefore there was little point in offering courses in Swedish. No organised activities are offered at a general level currently. Some NGOs and churches offer shorter courses in Swedish on a regular basis.

## C. Health care

### Indicators:

- Is access to emergency health care for asylum seekers guaranteed in national legislation?  
 Yes     No
- In practice, do asylum seekers have adequate access to health care?  
 Yes     with limitations     No
- Is specialised treatment for victims of torture or traumatised asylum seekers available in practice?     Yes     No

During the asylum process and until the asylum seeker leaves Sweden or is granted a residence permit, the alien is entitled to social benefits, necessary medical care, and education as provided by the Reception of Asylum Seekers and Others Act (1994:137). This law is also applicable to asylum seekers who are granted temporary protection under Chapter 21 of the Aliens Act – in the event of a mass influx of displaced persons – but ineligible for registration in the population registry.

County councils are the authorities that are responsible for district health centres (*vårdcentralen*), hospitals and the National Dental Service (*Folktandvården*).

#### *Adults' right to health and medical care*

Every asylum seeker has the right to a free medical examination. They are entitled to emergency or urgent medical and dental care. The local county council decides on what kind of care that includes. They are also entitled to gynaecological and prenatal care, as well as care in accordance with the Swedish Communicable Diseases Act.

#### *Children's right to health and medical care*

Child and teenage asylum seekers under 18 are entitled to the same health care as all others who live in Sweden.

#### *Fees for health and dental care*

Asylum seekers pay 50 SEK (€6) to see a doctor at the district health centre or to receive medical care after obtaining a referral. Other medical care, such as with a nurse or physical therapist, costs 25 SEK (€ 3) per visit. Medical transportation costs €5. The fee for emergency care at a hospital varies from county to county.

#### *Medication*

Asylum seekers pay no more than 50 SEK (€6) for prescription drugs. That applies to children as well.

#### *The 400 SEK (€50) rule*

If an asylum seeker pays more than 400 SEK (€50) for doctor's appointments, medical transportation and prescription drugs within six months, they can apply for a special allowance. The Migration Board can compensate for costs over 400 kronor. The 400 SEK rule applies individually for adults and common for siblings under 18. Dental and emergency hospital care are not covered.

## Detention of Asylum Seekers

### A. General

#### Indicators:

- Total number of asylum seekers detained in the previous year (including those detained in the course of the asylum procedure and those who applied for asylum from detention): 2550 (inc. 24 children)
- Number of asylum seekers detained or an estimation at the end of the previous year (specify if it is an estimation): 169
- Number of detention centres: 9
- Total capacity: 235

The above statistics cover total number of asylum seekers detained and the majority are persons with legally enforceable expulsion orders. The number of persons detained because of inability to identify themselves is minimal, whereas the number of Dublin detainees who may still have an appeal pending is a little higher. In practice many Dublin cases abscond before an attempt to remove takes place. There have been no reports of overcrowding in the detention centres. The detention centre in Märsta, near Arlanda airport has the highest rate of use with over 90% of capacity utilised over the year (72% was the national average in 2012). The detention centres in Flen and Gävle are used most frequently if there is insufficient capacity in Märsta.

### B. Grounds for detention

#### Indicators:

- In practice, are most asylum seekers detained
  - o on the territory:  Yes  No
  - o at the border:  Yes  No
- Are asylum seekers detained in practice during the Dublin procedure?  
 Frequently  Rarely  Never
- Are asylum seekers detained during a regular procedure in practice?  
 Frequently  Rarely  Never
- Are unaccompanied asylum-seeking children detained in practice?  
 Frequently  Rarely  Never
- Are asylum seeking children in families detained in practice?  Frequently  Rarely  Never
- What is the maximum detention period set in the legislation (inc extensions): 12 months
- In practice, how long in average are asylum seekers detained? 11 calendar days

#### *The legal framework*

The detention of an alien who is seeking asylum can take place at any time during the asylum procedure and also after the claim has been rejected at the final instance.

According to Chapter 10 of the Aliens Act, an alien, whether an asylum seeker or an illegal migrant, who is over 18 years of age, may be detained in a special detention centre if:

- a. their identity is unclear;
- b. detention is necessary for the investigation of their right to stay in Sweden;

- c. it is likely that they will be refused entry or be expelled, or this is necessary for the enforcement of an existing refusal of entry or expulsion order.

In principle, detention under paragraph (c) can only be ordered if there are some reasons to presume that the alien otherwise will go into hiding or will engage in criminal activities in Sweden.

Detention under paragraph (b) is limited to 48 hours. In the other cases, it is limited to two weeks unless there are exceptional grounds for a longer period. However, if the refusal of entry or the expulsion order has already been made, the detention period may last up to two months, and even longer if there are exceptional grounds. However the decision to keep a person in detention must be reviewed every two months.

An alien may not be detained for enforcement longer than two months, unless there are exceptional reasons for a longer time. Even if there are such exceptional circumstances, the alien is not detained longer than three months or, if it is likely that the execution will take longer because of the lack of cooperation by the alien or it takes time to acquire the necessary documents, more than twelve months. The time limits of three and twelve months do not apply if the alien is expelled by ordinary courts because of crimes.

A detainee always has a right to legal counsel if detained more than three days.

Persons who have been victims of torture or are otherwise vulnerable are not excluded from being detained. Supervision is always an initial alternative to detention and must be resorted to first in the case of unaccompanied children. Supervision entails the asylum seeker reporting regularly to the police or to the Migration Board depending on which authority is responsible for the decision. A decision regarding supervision cannot be appealed but it must be reviewed after six months.

According to the law a child may be detained if

- it is probable that the child will be refused entry with immediate effect or the purpose is to enforce a refusal-of-entry order with immediate effect; or
- there is an obvious risk that the child will otherwise go into hiding and thereby jeopardise an enforcement that should not be delayed and it is not sufficient for the child to be placed under supervision.

A child may also be detained if it has not proved sufficient to place the child under supervision under the provisions.

### *Section 3*

A child may not be separated from its guardians by detaining the child. A child that does not have a guardian in Sweden may only be detained if there are exceptional grounds. A child may also be placed in detention if the child has previously been under surveillance through the reporting system and that has not proved sufficient to allow the expulsion order to be carried out. The child must not be separated from its legal guardian or if they are more than one not from the other, by placing one guardian and the child in detention. If the child has no legal guardian detention can only be used in very exceptional cases.

When a child is placed in detention there is a maximum time limit of 72 hours after which the child must be released. Only in very exceptional circumstances can a child be detained for a further 72 hours. There are no special detention facilities for children.

Children are very seldom detained in practice. In 2013 up to April, 40 children were detained, 35 for a maximum of 48 hours and 5 for up to 14 days. In the same period 946 adults had been detained for up to 48 hours, 251 from 3/14 days and 136 from 15/60 days. 6 had been detained for more than two months

In the same period of time there were 114 supervision decisions for all categories

Four authorities have the power to make decisions on detention. The police authority can make such a decision before asylum seekers have their asylum case registered at the Migration Board and also in cases where aliens are present illegally in the country or have been expelled on grounds of criminality and served their sentence but are still in the country. The police are also responsible for taking decisions on detention when the Migration Board has handed over a case to them. This happens when the Migration Board no longer considers that the persons will leave the country on a voluntary basis even though their appeal has been rejected. Normally a rejected asylum seeker has 14 calendar days to leave the country voluntarily although this may in practice be extended if the circumstances warrant this.

The Migration Board can take decisions on detention as long as they are handling the asylum case or an application for a residence permit. The Migration Courts can make decisions on detention while dealing with an appeal. If they make a decision on detention as the first instance the decision can be appealed to the Migration Court of Appeal.

If a case is being dealt with by the government (expulsion because of criminality or because of a security threat) it is the minister responsible who decides on whether an alien should be detained or not. The police are also allowed to place an alien in detention, even if this is not their formal responsibility, when circumstances so require - for example if there is a clear risk of an alien disappearing once apprehended. Even the coastguards and customs officers can detain an alien if there is a danger that the alien will go into hiding. However the detention must be reported immediately to the police, who then take over responsibility.

In the current system the officers of the Migration Board are not allowed to use force to implement a decision. They must therefore call on the police for assistance to for example escort an alien to or from the detention centre or to enforce and expulsion order when a detainee refuses to comply.

Victims of torture are not exempt from being placed in detention despite international recommendations stating that this should not occur.

### C. Detention conditions

#### Indicators:

- Does the law allow to detain asylum seekers in prisons for the purpose of the asylum procedure (i.e. not as a result of criminal charges)?  Yes  No
- If so, are asylum seekers ever detained in practice in prisons for the purpose of the asylum procedures?  Yes  No
- Do detainees have access to health care in practice?  Yes  No
  - o If yes, is it limited to emergency health care?  Yes  No
- Is access to detention centres allowed to
  - o Lawyers:  Yes  Yes, but with some limitations  No
  - o NGOs:  Yes  Yes, but with some limitations  No
  - o UNHCR:  Yes  Yes, but with some limitations  No

There are currently nine detention centres in Sweden in or near the major cities of Stockholm, Gothenburg and Malmö and in the towns of Flen and Gävle with a total capacity of around 235 places. These centres can also hold third country nationals who have never sought asylum but have received an expulsion order on other grounds such as minor crimes or for overstaying. The Aliens Act contains

specific rules on how the detention centre should be run. Aliens who are held in detention must be treated humanely and their dignity should be respected. By humane treatment is meant:

- the foreigner is always the focal point and their case must be dealt with in a legally safe and expedient manner;
- a good relationship must be established between the detainee and the staff from the very outset of the detainee's entry to the premises;
- the foreigner must be able to feel secure and safe in this exposed situation; and
- the staff must be sensitive to the needs of the detainee.

In the last year common guidelines have been introduced applicable to all detention centre staff members in relation to the registration of the arrival of a detainee and the detainee's departure.

Dignity should be respected based on the guidelines issued by UNHCR, which state that the conditions for detainees should be humane with respect for the inherent dignity of the person. The detainees are deprived of their freedom where they are detained without having been sentenced or suspected of criminal activity. Depriving them of their freedom has many similarities to incarceration, but the purpose is fundamentally different; therefore, necessitating also differing laws. .

Conditions in detention centres should be as close as possible to those at regular reception centres, run by the Migration Board. The only difference should be that the detainees are in a closed building and therefore have certain restrictions to their freedom of movement. Coercion or limitations in freedom of movement should not exceed what is necessary based on the grounds for the deprivation of freedom.

Activities at the detention centre are organised based on the least infringement on the integrity of the individual and their rights. This means that all detainees have the right to send and receive letters to and from anyone they wish and that men and women need not share rooms unless they belong to the same family. The detainee also has the right to contact other people than detainees and must not be locked up in their room, unless there are special grounds for this. The detainee must be allowed to keep valuable personal belongings.

Religious observance is possible for persons of all creeds. It is a basic right according to the Swedish constitution. However this does not mean they can leave the centre to go to a mosque, shrine or church. Instead a neutral room is reserved for religious observance at the detention centre. Detainees are also able to request visits from pastors, imams and others who are important in their religious observance. Some faith communities see to it that a leader or a representative visits the detention centre regularly.

While at the detention centre the detainee has the right to a daily allowance in the same way as other asylum seekers (currently around €3 a day, since they have free meals). Daily activities are organised for both their physical and mental health. There is a library with access to the internet, a number of other computers, a gym room and an enclosed outdoor area for ball games. Detainees are expected to help out with activities of daily living, keeping their rooms tidy and helping with work in the kitchen. If they refuse then their daily allowance can be reduced.

The detention centres have to take responsibility for all those aliens who have received an expulsion or deportation order but with regard to persons who have an expulsion order because they committed a serious crime these persons are detained either by the prison authority or the police. Furthermore, detainees who pose a real threat to others can also be removed to police custody. However a child under 18 may never be placed in a prison or in a police holding centre.

In other cases a problematic detainee can be confined in their room if this is necessary for the orderly running of the centre and for safety reasons or if the foreigner represents a danger to themselves or to others. Such a decision must be reviewed as often as is required but at least every third day. If the person is a danger to themselves then a medical examination should be promptly ordered. There is no

requirement that detention confined to a room at the centre must be tried before removing someone to police custody or to the prison services.

Detainees are allowed visitors and to receive and make phone calls on an unrestricted basis but there can be limitations based on practical reasons regarding the safe running of the detention centre. Drunken visitors will not be admitted, nor will visits in large numbers at the same time. Visiting hours should be generous and flexible and at times that are suitable to the visitor. More flexibility is shown to members of the family than to adult friends of the detainees. These visitors can never be searched bodily, however, if it is necessary, a visit can be supervised for reasons of security. But a visit by legal counsel can only be supervised at the request of the detainee or legal counsel. If it is suspected that illegal objects have been handed over to the detainee then the detainee may be bodily searched after the visit. Visits should in general take place privately in a suitable room. If a visit is denied for some reason then the detainee has the right to appeal the decision. If a visitor does not wish to give his or her name then this is not in itself grounds to deny a visit, nor is it in itself sufficient grounds to decide to supervise the visit. NGO's and UNHCR have unlimited access to detention centres.

A detainee is not allowed to have alcoholic drinks or other stimulants or any object that can hurt anyone or be to the detriment of the keeping of order at the detention centre. Basically the detainee should be allowed to retain objects of personal value and other belongings. Belts and braces are not normally taken from the detainee nor are objects such as personal cutlery, perfume bottles and deodorants. However the possession of a knife is not allowed. Regarding medicine there are restrictions to possessing a large number of sleeping tablets. Since the staff at the detention do not have medical training it can sometimes be difficult to know what to decide in individual cases. However, they can refer to guidelines issue by the Social Welfare Board.

Detainees have the right to freedom of information and the right to express opinions in the same way as other citizens. Therefore no restrictions can be placed on the individual's possession of certain newspapers or magazines. However the Migration Board does have a responsibility to limit the spreading of or access to for example pornographic materials or TV programmes which can be found offensive by other detainees.

If the detention centre staff suspects that a detainee may be in possession of forbidden substances such as drugs, alcohol or objects that can harm others or be a threat to order at the centre then a body search can be ordered. The detainee is often searched by the police before arriving at the centre. If that was the case the detainee will not be searched on arrival. If a body search is ordered then the law stipulates that it must not be carried out more thoroughly than the situation requires. Respect should be shown towards the detainee and a witness should be present unless this possibility is declined by the detainee. Women may not be bodily searched by a man nor in the presence of other men unless they are doctors or qualified nurses. There are different degrees of body searches. The Migration Board's staff is never allowed to carry out searches that involve examining the outer and inner parts of the body or the taking of tests. The Board staff can only examine clothes or any other object the person is wearing, bags, packages and other objects brought by the detainee to the centre.

Mail sent to the detainee can sometimes be the object of examination, in which case it should be opened in the presence of the detainee. If the detainee does not consent to the package being opened in their presence then the object should be put aside and not opened. An examination of the contents should not include reading a letter or other written documents. Mail from legal counsel, lawyers, international organs that have the right to receive complaints from individuals or from the UNHCR must not be opened. If it is clear from the weight or thickness of a letter that it only contains written material then it should be handed over to the detainee without any inspection. However if there is a reasonable suspicion that the letter or package contains drugs, alcoholic drinks or dangerous objects then the detainee should be summoned and the object may be inspected. A letter must not be opened or scanned before the detainee gives their permission. If staff suspects that a letter may have passport or

other identity document in it they are not allowed to open that mail. The only way the authorities can use their right to take care of a passport is if the detainee shows it to them.

Personal belongings that the detainee cannot have in their room are stored at the detention centre, unless the property is illegal, in which case it is handed over to the police. They can have access to these objects upon leaving the detention centre, as a list needs to be made of all stored objects. .

Regular security inspections are conducted at the detention centre to make sure that windows, walls, alarm systems, electricity plugs and the like are in order. However such inspections cannot involve a routine search of the personal belongings of the detainees. Bags, bedclothes, cupboards, wardrobes and chests of drawers cannot be searched, unless there is well-founded suspicion of possession of forbidden objects.

All detainees have access to health care , therefore, requiring, regular visits from nurses and doctors. All detainees have access to open air at least one hour a day often in an enclosed courtyard.

In the last two years a project has examined the special needs of female detainees and made proposals within the current system to incorporate a gender-friendly approach. A proposal has also been made to set up a special detention centre for women but no action has been taken so far. During 2013 a new form of detention centre will be set up called a transit centre to reduce the need to place asylum seekers temporarily in police custody units or even in prisons (which has been criticised by NGOs <sup>38</sup>and CPT <sup>39</sup>). Further reasons for this initiative are to decrease the average time spent in detention, minimise the risk that detainees be subjected to unnecessary transfers and to minimise the number of transports carried out by the Prison and Probation Service transport service (*Kriminalvårdens transporttjänst*). This new centre will have 20 places and will be located near Arlanda airport, adjacent the already existing detention centre.

#### D. Judicial Review of the detention order

##### Indicators:

- Is there an automatic review of the lawfulness of detention?  Yes  No

There are set limits for when a detention order must be reviewed and depending on the reason for detention they range from 48 hours to two weeks to two months. In case supervision (as an alternative to detention) is used instead of detention, a review of whether the person complies with the conditions the must be carried out every sixth months. A 48 hour review applies to persons detained because of the need to investigate their right to enter Sweden; a two week review applies for those detained because of identity issues and a two month review for those with enforceable expulsion orders. Where time limits are not respected a decision to detain or hold a person under supervision ceases to be legally binding. Each review of a detention order must be preceded by an oral hearing. In case of supervision this is desirable but not mandatory. Depending on the authority responsible for the initial decision to detain an appeal can be made either to the Migration Board, the Migration Courts or to the Migration Court of Appeal. In the case of the latter no leave to appeal is required as is the case for an asylum application. In certain cases it is the responsible minister that can make a decision on detention. This detention decision can be reconsidered in accordance with the time limits and changed by the

<sup>38</sup> Swedish Red Cross, "Forvar under lupp" (*Detention centres under the magnifying glass*), Report, May 2012, available [here](#).

<sup>39</sup> Report sent to the Swedish Government on the visit to Sweden carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 9 to 18 June 2009, available [here](#).

government. A government confirmation of a detention order can only be changed by another authority if new circumstances arise that are raised before the Migration Board in the form of a subsequent application. However a government order must also be reviewed according to the legal time limits.

## E. Legal assistance

### Indicators:

- Does the law provide for access to free legal assistance for the review of detention?  
 Yes                       No
- Do asylum seekers have effective access to free legal assistance in practice?    Yes    No

After three days in detention an asylum seeker has access to free legal counsel on detention matters only. Prior to that, others such as a private lawyer, a person with a power of attorney, possibly from an NGO, and also the applicant, may request a review of their detention order. If an expulsion is planned to take place on the fourth day of detention it sometimes happens that legal counsel is not appointed promptly.