

Country Report: Sweden



2016
Update



Acknowledgements & Methodology

The first report and first three updates were compiled by George Joseph, Director of National and Migration Department, Caritas Sweden and Michael Williams of the Swedish Network of Refugee Support Groups (FARR), and edited by ECRE. This update was prepared by Michael Williams of FARR and Lisa Hallstedt.

This report draws on the practice of civil society organisations and other relevant actors, statistical information from the Swedish Migration Agency and the Swedish Migration Courts as well as legal guidance documents and reports from the Migration Agency. The authors would like to thank the Swedish Migration Agency and the Swedish Courts Authority for their input.

The information in this report is up-to-date as of 31 December 2016, unless otherwise stated.

The Asylum Information Database (AIDA)

The Asylum Information Database (AIDA) is coordinated by the European Council on Refugees and Exiles (ECRE). It aims to provide up-to date information on asylum practice in 20 countries. This includes 17 EU Member States (AT, BE, BG, CY, DE, ES, FR, GR, HR, HU, IE, IT, MT, NL, PL, SE, UK) and 3 non-EU countries (Serbia, Switzerland, Turkey) which is accessible to researchers, advocates, legal practitioners and the general public through the dedicated website www.asylumineurope.org. The database also 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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Glossary & List of Abbreviations

AMIF	Asylum, Migration and Integration Fund
CJEU	Court of Justice of the European Union
CPT	Council of Europe Committee on the Prevention of Torture
CSN	Centrala studiestödsnämnden
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
ERF	European Refugee Fund
FARR	Swedish Network of Refugee Support Groups Flyktinggruppernas Riksråd
IFRS	International Federation of Iranian Refugees in Sweden
JO	Parliamentary Ombudsman
LGBTI	Lesbian, gay, bisexual, transsexual and intersex
LMA	Law on the Reception of Asylum Seekers
NPM	National Preventive Mechanism
RFSL	Swedish Association for Gays and Lesbians
RMV	National Board of Forensic Medicine Rättsmedicinalverket
UNHCR	United Nations High Commissioner for Refugees
UNRWA	United Nations Relief and Works Agency

Statistics

Overview of statistical practice

The Swedish Migration Agency publishes monthly statistical reports on asylum applications and first instance decisions.¹ These include a breakdown per nationality, as well as statistics specifically relating to unaccompanied children.

Applications and granting of protection status at first instance: 2016

	Applicants in 2016	Pending applications in 2016	Refugee status	Subsidiary protection	Humanitarian protection	Rejection	Refugee rate	Subs. Prot. rate	Hum. Prot. rate	Rejection rate
Total	28,939	71,576	17,913	48,935	2,112	19,669	20.2%	55.2%	2.4%	22.2%%

Breakdown by countries of origin of the total numbers

Syria	5,457	5,627	2,619	42,349	5	140	4.8%	76.9%	0.01%	0.3%
Afghanistan	2,969	31,422	1,659	941	971	4,152	21.5%	12.2%	12.6%	53.7%
Iraq	2,755	12,772	1,060	565	157	2,130	27.1%	14.4%	4%	54.5%
Somalia	1,646	3,210	1,339	313	56	1,205	46%	10.8%	1.9%	41.3%
Stateless	1,323	2,588	4,995	642	142	341	81.6%	10.5%	2.3%	5.6%
Iran	1,279	3,683	761	16	28	444	60.9%	1.3%	2.2%	35.6%
Eritrea	1,151	1,062	3,090	3,001	11	46	50.3%	48.8%	0.2%	0.7%
Albania	785	228	16	25	21	909	1.6%	2.6%	2.2%	93.6%
Turkey	738	722	20	3	4	174	10%	1.5%	2%	86.5%
Georgia	737	326	8	0	25	642	1.2%	0%	3.7%	95.1%

Source: Migration Agency.

¹ Migration Agency, *Asylum statistics*, available at: <http://bit.ly/2kkz2Vu>.

Gender/age breakdown of the total number of applicants: 2016

	Number	Percentage
Total number of applicants	28,939	100%
Men	17,352	60%
Women	11,587	40%
Children	10,909	37.7%
Unaccompanied children	2,199	7.6%

Source: Migration Agency.

Comparison between first instance and appeal decision rates: 2016

	First instance		Appeal	
	Number	Percentage	Number	Percentage
Total number of decisions	87,197	-	16,203	-
Positive decisions	67,258	77.1%	2,040	12.6%
• <i>Refugee status</i>	17,114	19.6%	799	4.9%
• <i>Subsidiary protection</i>	47,344	54.3%	1,011	6.2%
• <i>Humanitarian protection</i>	1,882	2.1%	230	1.4%
Negative decisions	19,669	22.9%	14,163	87.4%

Source: Migration Agency. Appeal decisions are subject to a 5% margin of error, as per Migration Agency statistics.

Overview of the legal framework

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

Title in English	Original Title (SE)	Abbreviation	Web Link
Aliens Act, 2005:716	Utlänningslagen, 2005:716	UtlL	http://bit.ly/2jOPryv (SE)
Law on Reception of Asylum Seekers and Others, 1994:137	Lagen om mottagande av asylsökande, 1994:137	LMA	http://bit.ly/2kLHi28 (SE)
Law on temporary limitations to the possibility of being granted a residence permit in Sweden, 2016:752	Lag om tillfälliga begränsningar av möjligheten att få uppehållstillstånd i Sverige, 2016:752		http://bit.ly/2jOLIXn (SE)
Amendment to the Law (1994:137) on Reception of Asylum Seekers and Others, 2016:381	Lag om ändring i lagen (1994:137) om mottagande av asylsökande m.fl.; 2016:381		http://bit.ly/2kkCPck (SE)

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

Title in English	Original Title (SE)	Abbreviation	Web Link
Aliens Act Ordinance, 2006:97	Utlänningsförordningen, 2006:97	UtlF	http://bit.ly/2kHZuq1 (SE)
Ordinance on the Act on Reception of Asylum Seekers, 1994:361	Förordning om lagen om mottagande av asylsökande, 1994:361	LFA	http://bit.ly/2jMHsV9 (SE)

Overview of the main changes since the previous report update

The report was previously updated in **December 2015**.

Asylum procedure

- ❖ Sweden introduced amendments to the Aliens Act entering into force on 1 January 2017, with a view to transposing the recast Asylum Procedures Directive. The law spells out the grounds for considering an application manifestly unfounded and provides that an appeal with suspensive effect upon request is allowed, where removal is not allowed until the court decides on whether to grant suspensive effect. The same rules apply for appeals against decisions of the Migration Agency to deem a first subsequent application inadmissible.
- ❖ The transposition of the recast Asylum Procedures Directive has also introduced guarantees for unaccompanied children. A refusal of entry with immediate enforcement cannot be executed for at least one week after being notified to the child. The law also states that unaccompanied children should always be entitled to legal assistance in asylum cases and be immediately informed of the appointment of a guardian.

Reception conditions

- ❖ Owing to the rapid drop in numbers of asylum seekers, the previous congestion in reception centres is no longer a problem. There is a gradual return to normal accommodation standards. The subsistence payments are still at the same level as 1994.
- ❖ The Law on the Reception of Asylum seekers was modified on 1 June 2016 so that adults without children with a legally enforceable removal order will not be allowed to stay in the Migration Agency's accommodation, and their subsistence allowance will be stopped completely. They must hand in their asylum registration card and the bank card for accessing their allowance and are expected to leave the country as soon as possible. They lose access to subsidised medical care. The only exception to this is if a person has obviously acceptable grounds to be exempted. This does not include chronic illnesses but can include recent serious illnesses that require care. Others exempted are persons who have cooperated fully in preparing for their own removal and where the hindrance to removal in no way is linked with their own actions or in-action. Those living in private accommodation will not lose their access to housing but will no longer have any allowance nor have access to subsidised medical care. This means that, if this group remains in Sweden because there are no avenues for voluntary return, they face destitution. The Swedish Social Welfare Act states that there is a right to emergency support from the municipality but the matter is not completely clear legally. There is a case pending at the highest administrative court that may give clearer guidance soon. Some NGOs are preparing a complaint to the European Social Committee, since this policy may well be in contravention of articles in the European Social Charter.

Content of international protection

- ❖ Up until 20 July 2016, the vast majority of residence permits granted to persons in need of international protection or on humanitarian grounds were all permanent. They could, in principle, only be withdrawn if a person spent a major part of their time in another country or if a person was charged with a serious crime that involved deportation. Occasionally temporary permits were granted, mainly for medical reasons or for temporary hindrances to expulsion. This situation

changed from 20 July 2016, when the new temporary law on migration was adopted and entered into force for a 3-year period until 2019.²

- ❖ Convention refugees will be granted a 3-year temporary permit with the right to family reunification if the application is made within three months of the reference person receiving their permit. Beneficiaries of subsidiary protection will be granted an initial period of 13 months temporary residence permit with no right to family reunification. The permit can be extended another 2 years if protection grounds persist. Persons whose removal would contravene Sweden's international convention-based obligations and who do not qualify for convention or subsidiary status can be granted an initial temporary permit of 13 months which can be prolonged for 2 years if the grounds persist. If such a permit is granted in a subsequent application, then the permit is first granted for thirteen months and then one year at a time subject to the same grounds. This category has no right to family reunification.
- ❖ The Migration Court of Appeal ruled on 18 January 2017 that the length of the residence permit *per se* cannot be appealed by a beneficiary of international protection, though an appeal against the type of protection granted is possible.³

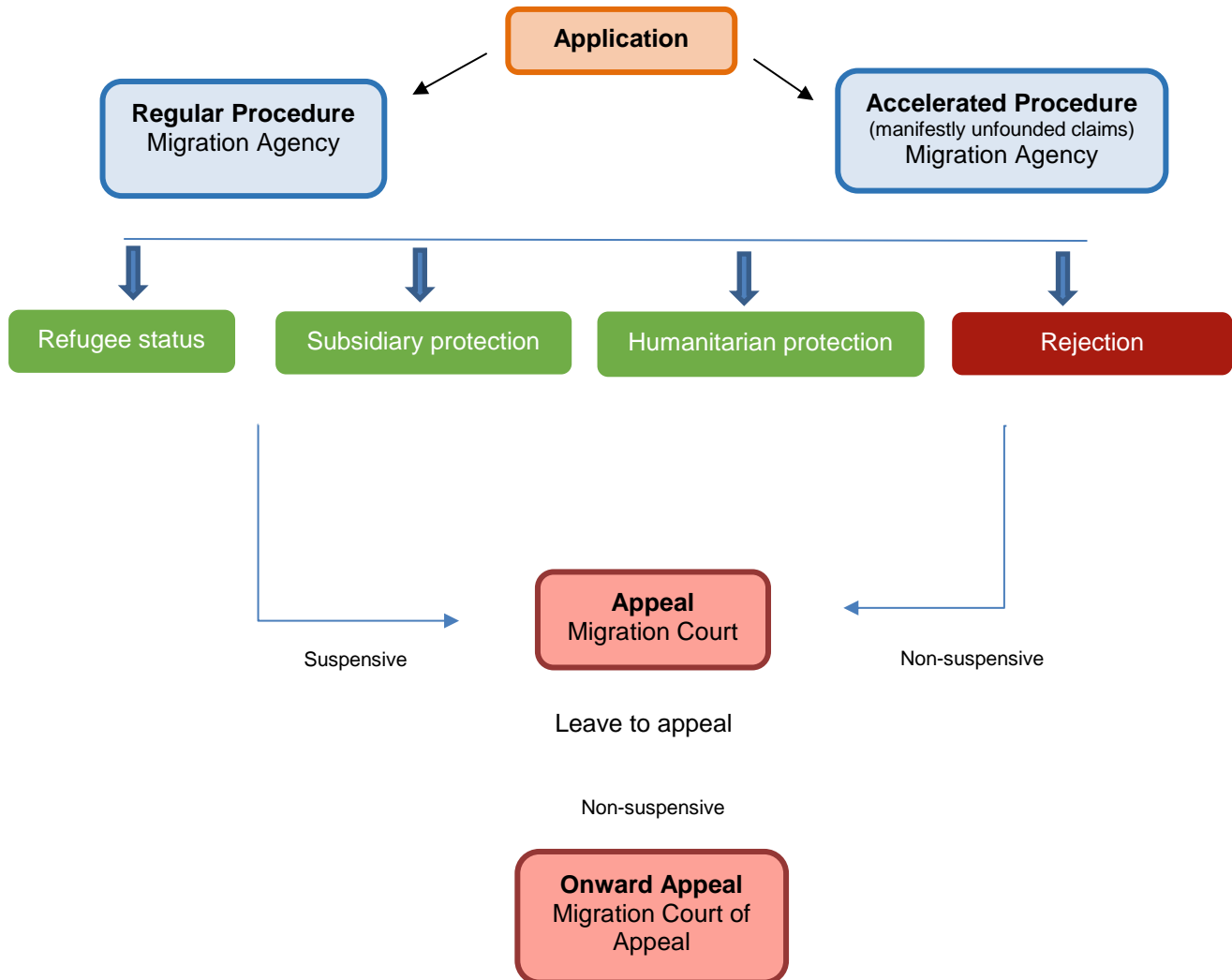
² Lag om ändring i lagen (1994:137) om mottagande av asylsökande m.fl.; SFS 2016:381. For a summary in English, see: <http://www.farr.se/en/att-soeka-asyl/the-temporary-law>.

³ Migration Court of Appeal, MIG 2017:1, UM9122-16, 18 January 2017, available at: <http://bit.ly/2jyj19t>.

Asylum Procedure

A. General

1. Flow chart



2. Types of procedures

Indicators: Types of Procedures

Which types of procedures exist in your country?

- | | | |
|---|---|--|
| ❖ Regular procedure: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ▪ Prioritised examination: ⁴ | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ▪ Fast-track processing: ⁵ | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ Dublin procedure: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ Admissibility procedure: | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| ❖ Border procedure: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ Accelerated procedure: ⁶ | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ Other: | | |

3. List of authorities intervening in each stage of the procedure

Stage of the procedure	Competent authority (EN)	Competent authority (SE)
Application on the territory	Migration Agency	Migrationsverket
Dublin (responsibility assessment)	Migration Agency	Migrationsverket
Refugee status determination	Migration Agency	Migrationsverket
First appeal	Migration Court	Förvaltningsrätten Migrationsdomstolen
Second (onward) appeal	Migration Court of Appeal	Kammarrätten i Stockholm, Migrationsöverdomstolen
Subsequent application (admissibility)	Migration Agency	Migrationsverket

The police also has authority to intervene at all stages of the procedure. The government has authority to intervene in cases raising security issues.

4. Number of staff and nature of the first instance authority

Name in English	Number of staff	Ministry responsible	Is there any political interference possible by the responsible Minister with the decision-making in individual cases by the first instance authority?
Migration Agency	8,432, incl. 3,009 case officers 553 decision-makers	Ministry of Justice	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Source: Migration Agency. See also: <http://bit.ly/2kbqdLG>.

5. Short overview of the asylum procedure

The Migration Agency and Migration Courts

The administrative system in Sweden differs from the rest of Europe in terms of 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, or ministers, have limited

⁴ For applications likely to be well-founded or made by vulnerable applicants. See Article 31(7) APD.

⁵ Accelerating the processing of specific caseloads as part of the regular procedure.

⁶ Labelled as “accelerated procedure” in national law. See Article 31(8) APD.

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 performed by civil service departments in Sweden, which are overseen by a ministry.

The Migration Agency, previously known as “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. According to Swedish legislation, the Migration Agency, as is the case with all authorities, is fully independent from the Government as well as the Parliament in relation to individual decisions and the Government is prohibited from influencing its decisions. This also applies to the Agency’s policy on different topics. The Migration Agency 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 of responsibility includes ensuring effective case management in line with Sweden’s Alien and Citizenship Act, as well as upholding due process. The Migration Agency is also responsible for aliens without residence permits until such time when a permit has been granted and the person has settled in a municipality. Legal provisions pertaining to the Migration Agency are found primarily in the 2005 Aliens Act and the 2006 Ordinance with Instructions for the Migration Agency. While an application is being examined or appealed, the asylum seeker is covered by the 1994 Reception of Asylum Seekers and Others Act, which is applied by the Migration Agency. 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 Agency Reception Unit is responsible for the facilitation of the asylum seeker’s settlement in a municipality through cooperation with the Employment Agency (*Arbetsförmedling*);
- Where the application is, however, unsuccessful or a residence permit was refused, the asylum seeker will be returned to the country of origin.

Sweden has an asylum procedure where first instance decisions are taken in an administrative procedure by the Migration Agency, and 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. There are currently four Migration Courts, which are special divisions of the County Administrative Courts (*Förvaltningsrätten*) in Stockholm, Gothenburg, Luleå and Malmö.

There is a further possibility to appeal before the Migration Court of Appeal (*Migrationsöverdomstolen*), to which leave to appeal must be requested. 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 (*Högsta förvaltningsdomstolen*) which, however, does not deal with asylum claims.

First instance procedure: Asylum applications can only be made at designated offices of the Migration Agency to which airport and port applicants are referred to.

Asylum cases can either be dealt with under the **accelerated procedure** cases or the **regular procedure**. Asylum applicants under both regular and accelerated procedures 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. Manifestly unfounded cases are dealt with in the accelerated procedure and normally no legal counsel is granted, unless the applicant is an unaccompanied minor. Where the applicant has requested legal assistance, the decision not to appoint a legal representative at first instance can be appealed to the Migration Court. If not requested at first instance, legal assistance can be requested on appeal. As of 1 January 2017, there is also the possibility to request suspensive effect for appeals in manifestly unfounded cases. Decisions in accelerated procedures must be taken within three months from the lodging of an application.

The Migration Agency is responsible for examining all asylum claims at first instance but also for assessing subsequent applications and 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 Agency that appoints legal counsel. Interpreters are available at all stages of the procedure. There is always an oral interview at the Migration Agency, 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 Migration Court of Appeal.

In **Dublin procedures**, the right to legal counsel is acknowledged at first instance for unaccompanied minors; other applicants have a right to legal assistance if exceptional grounds prevail. Such an exceptional situation could be established where the reception conditions in the receiving country are known to be poor and the principles in the European Court of Human Rights (ECtHR)'s ruling in *M.S.S. v. Belgium and Greece* apply.⁷ At the appeal stage, a request for legal assistance can be made but will not automatically be approved, especially if the court deems that an appeal is unlikely to be successful.⁸ However, appeals against decisions in the Dublin procedure have suspensive effect.

Some NGOs offer limited legal assistance in Dublin cases. Assistance can be provided in making appeals which are submitted in the name of the applicant. Asylum seekers are also informed by some NGOs on the right to lodge appeals themselves and make submissions in their own language. It is only since the implementation of the Dublin III Regulation that regular refugee and asylum lawyers have obtained the chance to encounter the intricacies of the Dublin system. This may over time lead to a desirable increase in legal expertise in this area.

Appeal: There are two levels of appeal. A first appeal is submitted before the Migration Court, and an onward appeal before the Migration Court of Appeal. First instance decisions must be appealed within 3 weeks, whether under the regular or the accelerated procedure. When a first instance decision is appealed, the appeal is first reconsidered by the Migration Agency. The Agency has the discretion to either change its earlier decision, should important new circumstances or the fact that the Migration Agency should consider its own decisions erroneous warrant that, or confirm the rejection. In the latter case, the appeal is forwarded by the Agency, sometimes with comments, to the Migration Court.

The appeal before the Migration Court has suspensive effect, except for appeals lodged against decisions rejecting a “manifestly unfounded” application in the accelerated procedure.

The appeal process is a written procedure. The applicant has the right to request an oral hearing but this is only granted if it is deemed beneficial for the investigation or if it would result in a rapid determination of the case. If new grounds for seeking protection are presented for the first time at court level, the court may refer the case back to the Migration Agency for reconsideration. This is because an applicant has the right to have their protection grounds assessed at two separate instances.

The applicant or the Migration Agency have three weeks from the date of the Migration Court's decision to request leave to appeal to the Migration Court of Appeal, or the date the applicant's legal representative received the decision. Leave to appeal is granted if “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 there are other exceptional grounds for examining the appeal.”⁹ Such exceptional reasons can exist where the Migration Agency has made a serious procedural error. Free legal aid is provided for making an application for leave to appeal. If leave is granted, further legal assistance is provided.

⁷ ECtHR, *M.S.S. v. Belgium and Greece*, Application No 30696/09, Judgment of 21 January 2011.

⁸ Migration Court of Appeal, UM 5998-14, 19 December 2014; UM 3055-14, 19 December 2014.

⁹ Chapter 16 Section 12 Aliens Act.

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

The Migration Court of Appeal can exceptionally hold an oral hearing but in most cases, there is only a written procedure.

Decisions of the Migration Court of Appeal are final and non-appealable. When the Migration Court of Appeal hands down its decision, the expulsion order is enforceable and the rejected applicant is expected to leave Sweden voluntarily within four weeks (two weeks for manifestly unfounded claims).

In national security cases, the Migration Agency 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 Migration Court of Appeal determines that upon return there is a risk of torture or other breaches of Article 3 of the European Convention on Human Rights (ECHR), which has been incorporated into Swedish law, the Government must abide by this opinion.

B. Access to the territory and registration

1. Access to the territory and push backs

Indicators: Access to the Territory

1. 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

EU rules state that countries in the passport-free Schengen zone can only bring in temporary border controls under exceptional circumstances. On 18 December 2015, the Swedish Parliament adopted Act 2015:1073 on specific measures in case of serious threats to public policy or internal security of the country, which allows the Swedish government to introduce identity checks.¹⁰ The law applies from 21 December 2015 and for the coming three years. At the same time, persons were made subject to ID checks on trains, ferries and buses from Denmark with Ordinance 2015:1074 Regulation on identity checks when there are serious threats to public policy or the internal security of the country.¹¹

On 8 June 2016, the Swedish Parliament adopted an amendment to the Law 2015:1073 relating to ID checks, which means that the waiting period of two weeks before the law could be renewed was removed, thus the government could extend the regulations for carrier responsibility. The amendment entered into force on 1 July 2016. If a carrier has not carried out a check of valid identification, the business may be fined 50,000 SEK or around € 5,000.

The extension was due to expire on 11 November 2016, but the Council of the European Union agreed to prolong the controls at the Swedish border for a further three months to 11 February 2017, while the Commission proposed a further extension by three months on 25 January 2017.¹² This affects the Swedish harbours in the Police Region South and West and the Öresund bridge. For asylum seekers, it means that only persons holding ID-documents can proceed into Sweden from Denmark. Since these measures have been in place, the number of asylum seekers has dropped from approximately 162,000 in 2015 to 29,000 in 2016. Regular work commuters between Sweden and Denmark have also been affected by these regulations. Sweden's government claims that refusing undocumented asylum seekers

¹⁰ Lag (2015:1073) om särskilda åtgärder vid allvarig fara för den allmänna ordningen eller den inre säkerheten i landet, available in Swedish at: <http://bit.ly/2jMxseu>.

¹¹ Förordning 2015:1074 om vissa identitetskontroller vid allvarig fara för den allmänna ordningen eller den inre säkerheten i landet, available in Swedish at: <http://bit.ly/2kamwG3>.

¹² See European Commission, *Proposal for a Council Implementing Decision setting out a Recommendation for prolonging temporary internal border control in exceptional circumstances putting the overall functioning of the Schengen area at risk*, COM(2017) 40, 25 January 2017, available at: <http://bit.ly/2jeuWdo>.

access to the territory is not a denial of the right of asylum, since an asylum application can be lodged in Denmark. The number of unaccompanied minors seeking asylum has plummeted from around 34,000 in 2015 to 2,199 in 2016, with the majority coming from Afghanistan.

The Migration Agency's latest forecast contains an indication to the government of what could happen if the controls on the Sound between Sweden and Denmark are removed:

- If Sweden in 2017 unilaterally terminates border and ID checks, this is expected to give an increase in the number of asylum seekers to Sweden by around 20%;
- If Sweden, Norway, Denmark, Germany and Austria simultaneously cease border and identity checks in 2017, the number of asylum seekers in Sweden is expected to increase by about 60%.

"Political developments in Europe tend to support more rather than fewer border controls", states the Swedish Migration Agency.¹³

2. Registration of the asylum application

Indicators: Registration

1. Are specific time-limits laid down in law for asylum seekers to lodge their application?
☐ Yes ☒ No
2. If so, what is the time-limit for lodging an application?

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

There are no specific time limits laid down in law within which a claim must be made. In reality, however, if a late claim is made, the applicant must put forward reasons for the delay during the asylum interview, and risks having his or her credibility called into question for not having sought protection earlier.

There have been no reported problems for asylum seekers regarding the registration of their claim in practice.

C. Procedures

1. Regular procedure

1.1. General (scope, time limits)

Indicators: Regular Procedure: General

1. Time-limit set in law for the determining authority to make a decision on the asylum application at first instance: None
2. Are detailed reasons for the rejection at first instance of an asylum application shared with the applicant in writing? ☒ Yes ☐ No
3. Backlog of pending cases as of 31 December 2016: 71,576

The Migration Agency's organization is headed by a Director General and consists of an operational unit, divided into six regions, a quality assurance department, a head office and several independent functions. Decisions are made on work permits, family reunification, adoption, studies, citizenship and asylum. The Migration Agency also operates detention centres. A law or political science degree is generally required to work on asylum cases. There is a special national unit for dealing with Dublin cases.

¹³ Migration Agency, *Forecast*, 7 February 2017, available in Swedish at: <http://bit.ly/2mKGYBp>.

The average handling time for cases at first instance is 328 days or 10.5 months as of December 2016.¹⁴ Applications from unaccompanied minors have not been processed as rapidly as previously and had an average handling time of 353 days as of December 2016. For other categories of asylum seekers, it takes on average 343 days for a first decision. For appeal cases, it is 5.6 months or 169 days.

The Migration Agency reached its highest number of asylum decisions in 2016, with a total 111,979 first instance decisions taken on applications. The Agency aims to clear the backlog of longstanding claims waiting for a decision no later than the summer of 2017.¹⁵ The total number of persons granted permits in 2016 was 67,258. Of these, 45,862 were granted permanent residence permits, 4,931 were granted 3-year permits and 14,504 were granted temporary permits. 1,961 persons were granted permits on other grounds and 1,808 persons had their applications rejected as manifestly unfounded (of which 1,979 from the Western Balkan countries).¹⁶

Since the summer of 2015, however, through the introduction of a procedure whereby identification documents of asylum seekers are transferred to a special national unit of the Migration Agency to be examined for authenticity before an initial decision is taken on the application, further delays have resulted for those who have handed in ID-documents. To shorten delays, there are staff at the regional level who make a more cursory examination of documents and hand over more complicated assessments to the national level.

The Migration Agency has been testing a new way of organising the flow of cases during 2016 in response to a government order to show how processing times can be shortened.¹⁷

The Migration Agency states that the protection process consists of three parts: (1) initial, (2) appeal and (3) enforcement processes. It runs from the application for asylum to the decision being enforced either by settlement or return.

During the initial process, cases are screened and sorted in different tracks based on their specific profile.¹⁸ Manifestly unfounded applications, Dublin cases and cases with a high percentage of rejections go directly to the units that can quickly handle these cases. Other cases are forwarded to the distribution centre. There is no oral procedure at this stage for this category but other procedural measures and screening are carried out. The different tracks provide guidance on how extensive an investigation is required in an individual case and thus create an efficient flow. A steady flow of cases during the determination process is assured when units request cases from the distribution centre. Accommodation is offered based on the nature of a case and the ambition is to avoid unnecessary secondary movements. Consideration is given to individual needs. All information and case handling measures under the protection assessment are adapted to the track concerned.

- Track 1** For a matter to be dealt with in the track 1 the following conditions must be met:
- (a) There is a presumption that the claim will be successful;
 - (b) There is no need to appoint public counsel;
 - (c) The identity of the claimant has been ascertained based on the documents submitted;
 - (d) No other major processing steps are needed other than an oral interview.

¹⁴ Migration Agency, *Statistics on Asylum decisions: December 2016*, available at: <http://bit.ly/2jxHBIG>.

¹⁵ Migration Agency, 'Highest number of asylum decisions to date', 17 January 2017, available at: <http://bit.ly/2jQ3RhM>.

¹⁶ Migration Agency, *Annual Report 2016*, available at: <http://bit.ly/2mcqzEV>.

¹⁷ See Swedish National Financial Management Authority, *Regleringsbrev för budgetåret 2016 avseende Migrationsverket*, 17 December 2015, available in Swedish at: <http://goo.gl/Kvt5rD>.

¹⁸ Migration Agency, *Skyddsprocess*, 1.4.3 – 2016-193808. The draft was shared with stakeholders on 21 December 2016.

- Track 2** Cases that require more processing steps or more extensive oral investigation than the cases handled in the first track. For the case to be dealt with in the track 2 one of the following conditions must be met:
- (a) There is a presumption that the claim will be successful but the applicant has not submitted any identity documents or made his or her identity likely through the documents submitted;
 - (b) The applicant on initial assessment has established his or her identity but there is no presumption of a successful claim and public counsel needs to be appointed.
- Track 3** Cases in which the need for comprehensive investigation measures is identified. As far as possible, measures should be taken before the oral asylum investigation to prevent long delays. There is no presumption of a successful claim in these cases and there is a need to appoint public counsel. The following cases shall be dealt with in Track 3:
- (a) Cases where exclusion grounds are raised;
 - (b) Cases of potential security risks;
 - (c) Cases where there is a suspicion of false identity;
 - (d) Cases where the need for language analysis exists;
 - (e) Cases where the issue of enforcement is complicated;
 - (f) Unaccompanied minors where the issue of orderly reception requires extensive investigative measures;
 - (g) Unaccompanied minors where medical age assessment is needed;
 - (h) Cases where there are indications of human trafficking;
 - (i) Cases where there are indications of honour-based violence and oppression;
 - (j) Cases involving the revoking of a residence permit or status declaration.
- Track 4A** Cases where an application for asylum is considered to be potentially manifestly unfounded. These cases are identified in the initial process and are handed to the home country return process. Cases in this category must not be forward to the distribution function. Even cases involving unaccompanied minors with potentially manifestly unfounded cases, where the question of adequate reception in the home country is not problematic, can be dealt with in this track.
- Track 4B** Cases involving foreigners seeking protection from countries with generally high rejection rates, where rapid enforcement is possible and the matter does not require extensive processing steps.
- Track 5** Cases to be dealt with under the [Dublin Regulation](#). These cases are identified in the initial process and handed over to the Dublin Units. Matters to be dealt with in Track 5 should not be sent to the distribution unit. Cases of unaccompanied minors where there is a 'category-1 hit' in Eurodac will also be sorted into Track 5 and managed by the Dublin Units.
- Cases in which the application may be rejected in accordance with Chapter 5, Section 1b(1)-(2) of the Aliens Act shall be dealt with by the Dublin Unit and sorted into the track 5 if: (a) the applicant has been granted protection status in another EU country; or (b) the applicant has been granted protection status in a non- EU country, but where the Dublin Regulation applies (Norway, Iceland, Switzerland).
- Track 6** Due to the Act 2016:752 concerning temporary restrictions on the ability to obtain a residence permit in Sweden, the protection process needs to be expanded with a sixth track. In Track 6, cases where the extension of the previous permit is requested are dealt with (see [Residence Permit](#)). This track also includes the extension of the temporary residence permit granted under the Aliens Act.

Track 7 In track 7 cases of **Relocation** to or from Sweden will be dealt with. A standard procedure for resettlement to Sweden from Italy and Greece has been drawn up but not implemented in the procedure yet.

1.2. Prioritised examination and fast-track processing

As outlined in **Regular Procedure: General**, the Migration Agency has outlined a tracks policy for different types of caseloads. Track 1 concerns cases where:

- (a) There is a presumption that the claim will be successful;
- (b) There is no need to appoint public counsel;
- (c) The identity of the claimant has been ascertained based on the documents submitted;
- (d) No other major processing steps are needed other than an oral interview.

1.3. Personal interview

Indicators: Regular Procedure: Personal Interview

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

Swedish legislation and regulations allow for a personal interview in all asylum cases. 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. These are carried out by officers of the Migration Agency 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 representative, an interpreter and the asylum seeker. However, in the new procedure at first instance, legal counsel is requested to hand in a summary of the case in advance of the interview for Track 3 cases (see **Regular Procedure: General**) to give more time for the case officer to focus at the interview on core issues of the claim.¹⁹ This new role has been criticised by the Bar Association since legal counsel is expected to carry out part of the task of the case officer²⁰

While video interviews are increasingly conducted, they remain a rare practice applied only if the applicant is residing at long distance from the Migration Agency's designated interview office. The interview may be audiotaped by the asylum case officer but this is not mandatory. 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. For that reason, the tape is not made accessible to legal counsel or the applicant, although changes are currently being discussed with a view to making official recordings available to counsel.²¹ 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.

Almost *verbatim* notes are taken and the transcript is made available to the applicant through the legal

¹⁹ Migration Agency, *Skyddsprocess*, 1.4.3 – 2016-193808. The draft was shared with stakeholders on 21 December 2016.

²⁰ Sveriges Advokatsamfund, 'Migrationsverkets nya arbetssätt: Anders Danielsson svarar Advokatsamfundet', August 2016, available in Swedish at: <http://bit.ly/2laGhQ2>.

²¹ Information provided by the Migration Agency, 2015.

counsel to comment on and add to before a decision is made in the case.²² A specific date is given by the Board, usually one to two weeks for when these comments and additional information have to be submitted. They are often appended to or included in the written appeal.

The applicant may request an interpreter and counsel of the same gender. The Migration Agency is not legally bound to provide this but does its best to accommodate these requests.²³ 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. In practice, if there is a clear problem with interpretation during the interview, then the asylum seeker can point to it and have the interview discontinued. In that case, a competent interpreter will be engaged on the next occasion. It is not possible for the authorities to select interpreters sharing the same religious belief as an applicant because it is forbidden in Sweden to register a person's faith. This means that the level of trust in the interpreter can vary and that sensitive issues may be avoided by the applicant. In the case of converts to Christianity, for instance, there is great sensitivity on this issue and a lack of knowledge of the relevant vocabulary has been noted by the authorities. Word lists have been prepared by the Swedish Christian Council that are awaiting funding to be translated to the most relevant languages. In the area of LGBTI applications, the Migration Agency has arranged seminars for interpreters to standardise terminology.

Only translators authorised by the Legal, Financial and Administrative Services Agency (*Kammarkollegiet*) have the right to describe themselves as authorised translators. Authorisation is awarded after a demanding written examination, consisting of texts on legal, economic and general topics. Authorised translators are required to observe high professional standards, which include maintaining confidentiality and only taking on assignments they are capable of completing in a satisfactory manner. Likewise, only interpreters authorised by the Legal, Financial and Administrative Services Agency may refer to themselves as authorised interpreters. To obtain authorisation, interpreters have to show in written and oral examinations that they have a good command of both Swedish and the other language concerned, as well as the necessary interpreting skills. They must also have a basic understanding of areas such as social services and social security, health care, employment and general law, and of the terminology used in these fields.

The Migration Agency is however not obliged to use authorised legal interpreters. However, the Courts do rely on 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 December 2016.²⁴ All companies stress that they follow the basic principles and respect the rules on confidentiality.

However, in asylum interviews, when applicants recount the core events in their applications, interpreters seldom give a *verbatim* account of what is said. At worst this can lead to an assessment by the case worker that the applicant has been vague in the account of events and therefore less credible. The onus is on legal counsel to expand on clipped translations when making the submission after examining the transcript of the interview. The applicant may well have provided a detailed account in his or her own language but it is only what is interpreted that makes its way into the official transcript.

²² The Migration Agency has introduced quality assurance procedures that retroactively require an analysis of how a case has been handled from various perspectives. This includes methods of promoting a learning organisation and check-lists have been introduced covering many issues. The team the case officer belongs to examines quality assessment reports on a regular basis and the team-leader has the responsibility for establishing and developing good practice: Information provided by the Migration Agency, 2015.

²³ Note that Article 15(2)(c) recast Asylum Procedures Directive introduces that obligation "wherever possible".

²⁴ Kammarkollegiet, *Kammarkollegiets tolkföreskrifter*, KAMFS 2016:4, 13 December 2016, available in Swedish at: <http://bit.ly/2jODxHx>.

1.4. Appeal

Indicators: Regular Procedure: Appeal

1. Does the law provide for an appeal against the first instance decision in the regular procedure?

❖ If yes, is it	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
❖ If yes, is it suspensive	<input checked="" type="checkbox"/> Judicial	<input type="checkbox"/> Administrative
	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
2. Average processing time for the appeal body to make a decision: 5.6 months

There are two levels of appeal in Sweden: The first level consists of four Migration Courts (*Migrationsdomstol*) and the second is the Migration Court of Appeal (*Migrationsöverdomstol*).

The Migration Court procedures

A refusal decision by the Migration Agency can be appealed before the Migration Court and has suspensive effect under the regular procedure.²⁵ In manifestly unfounded cases, the appeal also has suspensive effect as of 1 January 2017 if this is requested by the applicant and until the court decides thereon.²⁶

Appeals are made to the four Migration Courts in Stockholm, Luleå, Malmö and Gothenburg. 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 first instance decision to lodge an appeal.²⁷ The decision is communicated in writing to the asylum seeker by a staff member of the Migration Agency's nearest reception centre with the assistance of an interpreter, often available by telephone, in a language understood by the applicant. It is the duty of the legal representative 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.

An appeal can be lodged by the applicant in their own language, with some indication in Swedish or English – for practical reasons – as to the nature of the reasons for appeal. In a regular procedure an appeal is lodged in Swedish by the appointed lawyer but where no legal assistance is available the Migration Agency 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 Agency, which has the legal right to review its decision based on any new evidence presented. If the Migration Agency does not change its decision, the appeal is forwarded to the Migration Court which can independently decide if further translation is necessary.

Oral hearings at the Migration Court are not mandatory but can be requested by the asylum seeker. 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. The four courts vary in the extent to which oral hearings are granted. In 2016, the national total was 2,577 out of 8,262 cases. **Malmö** granted oral hearings in 492 cases (39.4%), **Gothenburg** in 502 cases (38.3%) **Luleå** in 154 cases (14.5%) and **Stockholm** 929 cases (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 video recorded e.g. in cases of national security.

²⁵ Ch. 12, Section 10 Aliens Act.

²⁶ Ch. 12, Section 8a Aliens Act.

²⁷ Ch. 23 Section 2 Administrative Law (Förvaltningslagen).

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 be included in the final decision. The Courts' decisions are not available online. However, upon request, the general public has access to all decisions in paper or electronic version.

Asylum seekers in the regular procedure have free legal aid and are usually called to a meeting with the lawyer to prepare the appeal to the Migration Court. The reasons for the first instance rejection are explained and the applicant has an opportunity to provide new evidence or arguments to support his or her case. An interpreter is available at this meeting. On rare occasions, legal counsel may fail to submit the appeal in time and this means the case cannot continue. However, there is a mechanism whereby an appeal can be made to have the late submission accepted by the court. The outcome of such an appeal depends on whether there are any extenuating circumstances e.g. in the event of serious illness or death of the applicant's legal counsel. If all the elements of the appeal cannot be submitted within the 3-week period when an appeal has to be lodged, the legal counsel can ask for an extension to complete the appeal. This is often granted. If the applicant wants an oral hearing at court, this has to be specifically requested. When this is done and the request is refused, however, the applicant is not always informed by counsel that the request has been turned down and can live in hope that he or she will be able to put forward their case in court.

The Migration Court of Appeal procedures

"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."²⁸

In general administrative procedure law, there is a further ground for leave to appeal "if reason exists for an amendment of the conclusion made by the county administrative court".²⁹ However, this ground 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 a serious procedural error made by the Migration Agency.

The applicant and the Migration Agency have 3 weeks to appeal to the Migration Court of Appeal after the delivery of the Migration Court's decision to the applicant.³⁰ Decisions of the Migration Court of Appeal are final and non-appealable.

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

The Migration 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 one or, in exceptional cases, three judges. There are no lay judges at the Migration Appeal Court; it only comprises qualified judges. If leave to appeal is granted, a decision is taken by three judges, while exceptionally important cases are decided by a panel of seven judges.

Free legal aid is provided for public counsel to make an application for leave to appeal. If leave is granted, then further legal aid is provided. Until a decision on leave to appeal is handed down, the appeal has suspensive effect.³¹ If leave is refused, the expulsion order is legally enforceable.

²⁸ Ch. 16, Section 12 Aliens Act.

²⁹ Section 34a(2) Administrative Court Procedure Act (1971:291).

³⁰ Ch. 16, Section 10 Aliens Act.

³¹ Ch. 16, Section 10 Aliens Act.

By the end of December 2016, 6,375 appeals were made to the Migration Court of Appeal, out of which 5,925 were decided upon. Only 31 cases were given leave to appeal (0.5% of applications).

When the Migration 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 a manifestly unfounded case or four weeks in regular procedure cases.

In national security cases, where the asylum seeker is considered as a potential threat to national security, the Migration Agency 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.³² However if the Migration Court of Appeal determines that there is a risk of torture or other breaches of Article 3 ECHR, which has been incorporated into Swedish law, then the Government has to abide by this opinion.³³

1.5. Legal assistance

Indicators: Regular Procedure: Legal Assistance

1. Do asylum seekers have access to free legal assistance at first instance in practice?
☒ Yes ☐ With difficulty ☐ No
❖ Does free legal assistance cover: ☒ Representation in interview
☒ Legal advice
2. Do asylum seekers have access to free legal assistance on appeal against a negative decision in practice?
☒ Yes ☐ With difficulty ☐ No
❖ Does free legal assistance cover ☒ Representation in courts
☒ Legal advice

Free legal assistance is provided to asylum seekers throughout the regular procedure and at all appeal levels and is funded by state budget. However, in Dublin cases and manifestly unfounded applications normally no free legal assistance is provided at first instance but can be requested at the second instance.³⁴ The legal representative is assigned and designated by the Migration Agency, 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. Because of the large increase in asylum seekers in 2015, public counsel was not appointed very early in the case as previously and interviews have taken place after many months of waiting. In most instances when counsel is appointed, they can meet the client before the asylum interview takes place but it still happens that the first meeting is at the oral interview.

At the preparatory meeting, the lawyer should inquire briefly as to the substance of the claim and ask for any substantiating documents as well as provide the asylum seeker with advice on the asylum procedure. In certain cases, (see [Regular Procedure: Personal Interview](#)) the public counsel is expected to hand in a summary of the case and formal grounds for the claim before the interview. 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 difficult for the lawyers to know in advance the exact number of hours of work out of those they have requested payment for they will be paid for by the authorities. Their fee can be reduced by a decision of the Migration Agency or at a later stage by the Court. These decisions can be appealed separately by legal counsel. On average, 10-15 hours of work are usually approved at the first instance for regular asylum cases and any hours beyond those have to be carefully motivated based on the exceptional nature

³² Ch. 2a, Special Control of Aliens Act (Lagen om särskild utlänningskontroll) 1991:572.

³³ Ch. 10, Special Control of Aliens Act.

³⁴ There is a right to free legal assistance if a person is detained for more than 3 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.

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 for asylum cases are €141.60 an hour (1,342 SEK). 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 for 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 Agency maintains a list of persons who have registered to be legal counsel in asylum and migration cases and distributes cases according to their availability. 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 appointed legal counsel does not fulfil his or her duties and to request a new lawyer. However, this is rarely granted. Lawyers have to have seriously breached their 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 Swedish practice and developments in international law.

2. Dublin

2.1. General

Dublin statistics: 2016

Outgoing procedure			Incoming procedure		
	Requests	Transfers		Requests	Transfers
Total	12,118	5,244	Total	5,582	3,306
Germany	5,156	3,668	Germany	1,911	993
Hungary	1,841	111	Denmark	774	566
Italy	1,106	292	Austria	722	448

Source: Migration Agency.

Application of the Dublin criteria

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 has direct effect is Swedish law.

All asylum seekers are fingerprinted if they are 14 years or older and checked both in the Eurodac and Visa Information System (VIS) databases. In 2016, 22,765 fingerprints were submitted and 10,991 hits were made in Eurodac and 6,673 in VIS. The top five hit countries for Eurodac were Greece, Germany, Hungary, Italy and Denmark and the top five countries of origin were Syria, Afghanistan, Iraq, Somalia followed by Stateless persons. For VIS hits, the top five applicant countries were Georgia, Iran, Syria, Iraq, and Eritrea.

There is no further information on the way the Swedish Migration Agency applies the responsibility criteria.

The dependent persons and discretionary clauses

As of 31 December 2016 Sweden has made use of the “dependent persons’ clause”³⁵ and the “discretionary clauses”³⁶ as follows: Sweden accepted responsibility under Article 16 of the Regulation for 7 cases in 2015 and 7 cases in 2016, while it has undertaken responsibility pursuant to Article 17 260 cases in 2015 and 313 in 2016.

2.2. Procedure

Indicators: Dublin: Procedure

1. On average, how long does a transfer take after the responsible Member State has accepted responsibility? 143 for the entire Dublin procedure

The applicant is initially informed in writing and orally that a Eurodac or a VIS 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 Agency to the applicant. The applicant has to sign that this decision has been received. The reception officer then discusses the practicalities of the transfer 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 an enforced 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.

The Migration Agency has produced information sheets in a number of languages outlining the mechanisms of the Dublin Regulation, although technical issues such as the effects of the VIS system are not easily comprehensible to asylum seekers. 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.

Individualised guarantees

Following the ECtHR’s ruling in *Tarakhel v Switzerland*,³⁷ the Swedish Migration Agency issued a position on the judgment in December 2014.³⁸ The Migration Agency’s position makes a narrow reading of *Tarakhel*, by holding that the obligation of the sending state to seek individual guarantees from the receiving state does not apply in respect of applicants who do not belong to families with children or other vulnerable groups. Moreover, it considers that persons who already hold a residence permit in the receiving state do not enter the reception system upon return, and are therefore excluded from the scope of the ruling. The Migration Agency’s position also holds that guarantees of reception conditions need not be requested until there is a legally enforceable decision and transfer is being planned.

In January 2016 a new position of the Migration Agency followed its previous one issued in April 2015,³⁹ relying on new information communicated by Italy to the European Commission. This position confirms the Migration Agency’s view that Italy currently fulfils the requirements of the *Tarakhel* ruling and that Sweden no longer needs to obtain individual guarantees before performing a transfer.⁴⁰ The legal position

³⁵ Article 16 Dublin III Regulation.

³⁶ Article 17 Dublin III Regulation.

³⁷ ECtHR, *Tarakhel v. Switzerland*, Application No 29217/12, Judgment of 4 November 2014.

³⁸ Migration Agency, *Rättslig kommentar angående Europadomstolens dom i målet Tarakhel mot Schweiz, ansökan nr 29217/12*, 1 December 2014, available at: <http://bit.ly/1J2ijy6>.

³⁹ Migration Agency, *Rättslig kommentar angående Europadomstolens dom i målet Tarakhel mot Schweiz, ansökan nr 29217/12*, 22/2015, cited in ECRE/ELENA, *Information Note on Dublin transfers post-Tarakhel*, October 2015, 13.

⁴⁰ Migration Agency, *Rättslig kommentar angående överföring av barnfamiljer till Italien i enlighet med Dublinförordningen (EU) nr 604/2013*, 1/2016, January 2016, available at: <http://bit.ly/2kK2lyG>.

refers among other elements to the Circular of the Italian Dublin Unit, listing the number of SPRAR accommodation places available to families with children:⁴¹

“In addition to the general guarantee, the Italian authorities provided additional guarantees along with a list of specially adapted accommodation which applicants will be placed in after a transfer to Italy. The latter guarantee has not been subject to the Migration Court of Appeal’s assessment. However, the European Court in its decision in the *J. A. and others vs The Netherlands* of 9 November 2015 adopted a position on the latter guarantee and the list of specially adapted accommodation and concluded that the Italian authorities’ commitments are sufficient to transfer a family with children to Italy.”⁴²

The Migration Court of Appeal had confirmed the Migration Agency’s position in a ruling of November 2015 on the same matter in a case which concerned the transfer of a family to Italy.⁴³ The Court ruled that guarantees need not be sought in the regular procedure but only at the point where removal was possible and being planned.

Transfers

Most Dublin transfers take place on a voluntary basis. However, a considerable number of applicants abscond, not least unaccompanied children. Asylum applicants are not detained when they are being notified that another country is responsible for assessing their asylum application. However, Dublin cases are accommodated in lodgings that are close to an airport or moved to such accommodation in connection with the impending transfer, instead of allowing them to settle initially anywhere in Sweden.

During 2016, a total 1,007 persons were forcibly removed from Sweden to EU/EEA states according to statistics from the Swedish Prison and Probation Services (*Kriminalvårdsstyrelsen*). Most were sent to Italy (312) followed by Germany (231) and Spain (59). The Migration Agency notes that 913 asylum seekers were removed by the police to EU/EEA countries during the same period. Those leaving on a voluntary basis numbered 6,804.

The average processing time for all Dublin cases in 2016 was 143 days.

2.3. Personal interview

Indicators: Dublin: Personal Interview

☐ Same as regular procedure

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the Dublin procedure?
❖ If so, are interpreters available in practice, for interviews?
2. Are interviews conducted through video conferencing?

☒ Yes ☐ No
☒ Yes ☐ No

☐ Frequently ☒ Rarely ☐ Never

According to a guideline decision by the Migration Court of Appeal,⁴⁴ all Dublin cases are subject to a personal interview conducted by the Migration Agency through an interpreter but without the presence of legal counsel. However, in the case of an unaccompanied child, the guardian is present and legal counsel can be appointed. The interview does not go into the asylum grounds in any detail but a brief outline of flight reasons is made in most of the interview documentation. Questions are asked about relatives in

⁴¹ For more information on the Italian reception system, see AIDA, Country Report Italy: 2016 Update, February 2017, available at: <http://bit.ly/2maTffMw>.

⁴² Migration Agency, Rättslig kommentar angående överföring av barnfamiljer till Italien i enlighet med Dublinförordningen (EU) nr 604/2013, 1/2016, January 2016, available at: <http://bit.ly/2kK2lyG>.

⁴³ Migration Court of Appeal, UM 3212-15, 26 November 2015, available at: <http://bit.ly/2jQe5Pf>.

⁴⁴ Migration Court of Appeal, UM 607-06, 22 January 2007.

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, and attitude towards leaving voluntarily. A transcript of the interview is made 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 in Sweden, but await a request from the other country regarding the desirability of family reunification and written consent from the family present in Sweden to be reunited.

2.4. Appeal

Indicators: Dublin: Appeal

☒ Same as regular procedure

1. Does the law provide for an appeal against the decision in the Dublin procedure?

❖ If yes, is it

❖ If yes, is it suspensive

☒ Yes

☒ Judicial

☒ Yes

☐ No

☐ Administrative

☐ No

In Dublin cases, there is no legal counsel automatically appointed at first instance (except for unaccompanied children), so the asylum seeker must either appeal alone or seek the support of friends or NGOs. The appeals procedure is no different from the appeal system that applies in the regular procedure.

In line with Article 27 of the Dublin III Regulation, if an applicant requests for their appeal to have suspensive effect, the Migration Agency usually suspends the transfer until the decision of the Court. Moreover, appeals in Dublin cases are often expedited quickly by the Migration Court and the Migration Court of Appeal. The appeal body does not take into account the recognition rates in the responsible member state when reviewing the Dublin decision.

The Migration Court of Appeal made a reference for a preliminary ruling to the CJEU in the case of *Karim*, concerning the scope of the right to an effective remedy under the Dublin Regulation.⁴⁵ The referring court has asked the CJEU to clarify whether an applicant is entitled to challenge a Dublin transfer solely on the basis of systemic deficiencies or also on other grounds i.e. relating to the application of the responsibility criteria. The CJEU ruled on 7 June 2016 and found that in order for a correct application of the responsibility determination procedure under the Dublin III Regulation to take place, the applicant must be able to contest a transfer decision and invoke an infringement of the rule set out in Article 19(2) of the Regulation, i.e. where the applicant provides evidence that he/she has left the territory of one Member State, having made an application there, for at least three months and has made a new asylum application in another Member State.⁴⁶

The Migration Court of Appeal decided on 24 November 2016 to refer the case back to the Migration Court for new consideration.⁴⁷

Occasionally, some courts will consider the reception facilities of the destination country but this factor alone is not sufficient for the appeal to be successful.

⁴⁵ CJEU, Case C-155/15 *Karim v. Migrationsverket*, OJ 2015 C198/23.

⁴⁶ CJEU, Case C-155/15 *Karim v. Migrationsverket*, Judgment of 7 June 2016, available at: <http://bit.ly/2kKfKa9>.

⁴⁷ Migration Court of Appeal, MIG 2016:24, UM 6068-14, 24 November 2016, available at: <http://bit.ly/2km3Qpk>.

2.5. Legal assistance

Indicators: Dublin: Legal Assistance

☐ Same as regular procedure

1. Do asylum seekers have access to free legal assistance at first instance in practice?
☐ Yes ☐ With difficulty ☒ No
❖ Does free legal assistance cover:
☐ Representation in interview
☐ Legal advice
2. Do asylum seekers have access to free legal assistance on appeal against a Dublin decision in practice?
☒ Yes ☐ With difficulty ☐ No
❖ Does free legal assistance cover:
☒ Representation in courts
☒ Legal advice

The Migration Court can appoint legal counsel in Dublin appeals but does take into account whether the grounds for appeal raise issues that could lead to a change in the decision. The difficulties with regard to access to legal assistance in the regular procedure are also applicable here (see [Regular Procedure: Legal Assistance](#)).

2.6. Suspension of transfers

Indicators: Dublin: Suspension of Transfers

1. Are Dublin transfers systematically suspended as a matter of policy or jurisprudence to one or more countries?
☒ Yes ☐ No
❖ If yes, to which country or countries?
Greece

Following the *M.S.S. v. Belgium and Greece* ruling, all transfers to **Greece** are suspended where the person has not been provided with protection status there.

Sometimes, transfers can be suspended based on the individual circumstances of the case. This has been the case for certain transfers to **Hungary** and **Italy**. Sometimes this decision is made by a court otherwise by the Migration Agency as a result of a subsequent application.

To date, the Migration Agency has not suspended transfers to **Hungary** and still delivers Dublin decisions. In a ruling of 1 July 2016, the Migration Court of Appeal found there to be no systemic deficiencies in the Hungarian asylum or reception system, although on the facts of the case, a family with children, Sweden was nonetheless responsible given that it would be in the best interests of the children to remain in Sweden.⁴⁸ In two earlier cases, however, the Migration Court of Stockholm, a lower instance to the Migration Court of Appeal, suspended transfers to Hungary on account of risks of *refoulement* stemming from accelerated procedures and the automatic application of the “safe third country” concept, as well as the risk of detention.⁴⁹

Only 17 persons were forcibly removed from Sweden to Hungary during 2016 according to statistics from *Kriminalvårdens transporttjänst*. These were probably transferred before the Court of Appeal ruling. If the decisions to remove to Hungary are not carried out within six months then the case automatically becomes Sweden’s responsibility.

2.7. The situation of Dublin returnees

Dublin returnees with a final negative decision in Sweden can be taken into custody on arrival and measures taken to facilitate their removal. If their case is still pending in Sweden then they are placed in

⁴⁸ Migration Court of Appeal, MIG 2016:16, UM 1859-16, 1 July 2016, available at: <http://bit.ly/2kMY5BP>.

⁴⁹ Migration Court, UM 587-16, 3 February 2016; UM 761-16, 2 March 2016.

an accommodation centre near a point of departure. Their case will be handled in an [Accelerated Procedure](#).

3. Admissibility procedure

N/A.

4. Border procedure (border and transit zones)

N/A.

5. Accelerated procedure

5.1. General (scope, grounds for accelerated procedures, time-limits)

The law makes no express reference to “accelerated procedures”. However, under the Aliens Act, there is a basis for handling manifestly unfounded claims in an accelerated procedure. The Migration Agency may issue an enforceable return order, which is not suspended pending appeal, “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.”⁵⁰

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

A 2016 legal instruction, valid for the Swedish Migration Agency and issued by that authority’s Head of Legal Unit,⁵¹ established that an expulsion with immediate effect should be considered in the following cases:

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

Extenuating circumstances leading to access to the full procedure could be health reasons or cumulative grounds

The Migration Court of Appeal has ruled that the requirement of “*manifestly* unfounded” involves the ability to make a clear assessment regarding the right to a permit without any further examination.⁵² The assessment should not be summary, by being solely based on the circumstance that the applicant has a certain nationality to which normally asylum is not being granted, for instance. The assessment of “manifestly” must always be based on the circumstances of the individual case.

The tracks policy introduced by the Migration Agency also foresees specific procedural channels for such caseloads: Track 4A for manifestly unfounded cases and Track 4B for applicants from countries with high recognition rates (see [Regular Procedure: General](#)). As a rule, all asylum applications from Western Balkan states are currently treated as manifestly unfounded.

The time limit for a decision under the accelerated procedure is three months. If the time limit has not been respected the case will be dealt with by regular procedure.

⁵⁰ Ch. 8, Section 6 Aliens Act. See also Ch. 12, Section 7 Aliens Act.

⁵¹ Migration Agency, *Rättsligt ställningstagande angående avvisning med omedelbar verkställighet 8 kap19 § utlänningslagen*, SR 21/2016, 1 July 2016, available in Swedish at: <http://bit.ly/2jxTDI8>.

⁵² Migration Court of Appeal, MIG 2006:7, UM 230-06, 31 October 2006; UM 2244-10, 22 December 2010.

5.2. Personal interview

Indicators: Accelerated Procedure: Personal Interview

☐ Same as regular procedure

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the accelerated procedure? ☒ Yes ☐ No
 - ❖ If so, are questions limited to nationality, identity, travel route? ☐ Yes ☒ No
 - ❖ If so, are interpreters available in practice, for interviews? ☐ Yes ☒ No
2. Are interviews conducted through video conferencing? ☐ Frequently ☒ Rarely ☐ Never

A personal interview is mandatory, as per a guideline decision of the Migration Court of Appeal.⁵³ There are no differences in the way the interview is carried out compared with the [Regular Procedure: Personal Interview](#), apart from the absence of a legal representative present. Occasionally, some NGOs or friends can assist with appeals but they are rarely present at the oral interview.

5.3. Appeal

Indicators: Accelerated Procedure: Appeal

☒ Same as regular procedure

1. Does the law provide for an appeal against the decision in the accelerated procedure?
 - ☒ Yes ☐ No
 - ❖ If yes, is it ☒ Judicial ☐ Administrative
 - ❖ If yes, is it suspensive ☐ Yes ☒ No

There is no difference in time limits in for lodging appeals under the accelerated procedure compared to the regular procedure (see [Regular Procedure: Appeal](#)). The same time limit of 3 weeks after the decision is notified applies.

Previously, appeals against decisions taken in the accelerated procedure had no suspensive effect. In the meantime, the applicant could be removed by the police, in which case the appeal, if ever made, is abandoned. In fact, many applicants refrained from appealing and leave voluntarily in order to avoid forced removal and being issued with a re-entry ban. However, the amendment to the Aliens Act entering into force on 1 January 2017 to transpose the recast Asylum Procedures Directive has introduced the possibility to request suspensive effect for such appeals.⁵⁴

5.4. Legal assistance

Indicators: Accelerated Procedure: Legal Assistance

☐ Same as regular procedure

1. Do asylum seekers have access to free legal assistance at first instance in practice?
 - ☐ Yes ☒ With difficulty ☐ No
 - ❖ Does free legal assistance cover: ☒ Representation in interview ☒ Legal advice
2. Do asylum seekers have access to free legal assistance on appeal against a Dublin decision in practice?
 - ☐ Yes ☒ With difficulty ☐ No
 - ❖ Does free legal assistance cover ☒ Representation in courts ☒ Legal advice

⁵³ Migration Court of Appeal, MIG 2007:4, UM 607-06, 22 January 2007.

⁵⁴ Ch. 12, Section 8a Aliens Act.

The Aliens Act states that there is no automatic obligation to provide legal counsel in manifestly unfounded cases.⁵⁵ However, if the court is of the opinion that the case is not manifestly unfounded, then the court orders suspension of the expulsion order and legal counsel will be appointed. Such a case is referred back to the first instance if there is not sufficient information regarding material grounds for a permit to be granted.⁵⁶ The difficulties with regard to access to legal assistance in the regular procedure are also applicable here (see [Regular Procedure: Legal Assistance](#)).

D. Guarantees for vulnerable groups

1. Identification

Indicators: Identification

1. Is there a specific identification mechanism in place to systematically identify vulnerable asylum seekers? ☐ Yes ☒ For certain categories ☐ No
❖ If for certain categories, specify which: Unaccompanied minors
2. Does the law provide for an identification mechanism for unaccompanied children? ☐ Yes ☒ No

The legal framework with regard to the needs of vulnerable asylum seekers is part of the 1994 Law on the Reception of Asylum Seekers (LMA). The LMA provides the legal framework and briefly mentions the provision for the needs of vulnerable groups. The issue of special needs of vulnerable asylum seekers is mainstreamed in the training of caseworkers. The Migration Agency has developed training courses for caseworkers who interview children and those who have completed this training are designated as case workers especially for unaccompanied children. Similar courses have been carried out and instructions issued in relation to women refugee claimants and claimants with LGBTI grounds.

A special working group at the Migration Agency has looked at vulnerable groups from all aspects, as part of the transposition of the recast Asylum Procedures Directive into Swedish law.⁵⁷ They have issued a standard through the quality assurance unit of the Migration Agency.⁵⁸ The Migration Agency has also opened three sheltered homes for up to 45 vulnerable asylum seekers in different parts of the country. The new accommodation is intended for people with individual and specific needs that are not being met with in the Migration Agency's regular operations, support and housing that are already in existence. This may involve, for example asylum seekers from ethnic minorities, victims of torture or LGBTI people with special needs of networking and social context.

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.

Age assessment

⁵⁵ Ch. 18, Section 1 Aliens Act.

⁵⁶ Wikrén & Sandessjö, *Utlänningslagen med kommentarer* (Commentary on the Aliens Act) 9th edition (Norstedts Juridik 2010), 555.

⁵⁷ Law (2016:1243) amending the Aliens Act, 16 December 2016, available in Swedish at: <http://bit.ly/2kP9vkz>.

⁵⁸ Migration Agency, *Kvalitetschefens instruktion angående standard för boendeplacering av sökanden med särskilda behov*, 1-37-2016, 13 June 2016.

When almost 35,000 unaccompanied minors sought asylum in Sweden in 2015, critical voices were raised regarding the need to develop more reliable methods to establish whether an applicant was a child or not. The government gave instructions to the National Board of Forensic Medicine (*Riksmedicinalverket*, RMV) to investigate more reliable methods, while at the same time recognising that absolute accuracy was not achievable. This authority has now chosen two methods to assess age and will be introducing a new system whereby such age assessment tests can be carried out rapidly throughout the country. In the six regions of the Migration Agency, there is now a capacity to carry out up to 500 assessments a month in each region. This system is expected to be introduced by early spring 2017.⁵⁹

The National Board of Forensic Medicine (RMV) explains that:

“There is no method for medical age assessment that can determine a person's exact age. RMV's core business is to deliver reports in the form of analyses and expert opinions in areas such as forensic matters and there is a great deal of experience within the authority of dealing with different degrees of uncertainty in the estimates. RMV's analyses and judgments are based on evidence or proven experience, which also applies to the work of medical age assessments. RMV in their forensic reports about age never speak with greater certainty than the scientific methods allow.

RMV's medical age assessments to determine whether a person is under or over 18 years are based on an overall assessment of two studies: X-ray irradiation of wisdom teeth (panoramic image), and an MRI of the lower part of the femur. Scanning and two independent analyses of the respective images will be made by external clinics. Based on the results of these studies, RMV makes a medical age assessment using a standardised matrix. A coroner in the RMV will then issue a forensic opinion on the age in the form of a probability assessment in text form.”

The Migration Court of Appeal has earlier made it clear in a guideline decision that the burden of proof lies with the applicant to establish his or her stated age as probable, with the aid of supporting documents, where available.⁶⁰

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 in Eurodac and hence of finding another Member State who might be responsible for examining the asylum request.

Where documents or other evidence proving the applicant's age as probable are not available, the age stated at the time of lodging of the 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.

There is no obligation for the Migration Agency to offer a medical examination; only a duty to inform the asylum seeker of the possibility. The cost of such an examination can be borne by the Migration Agency. Under this practice, the Migration Agency staff could therefore carry out subjective age assessments that cannot be appealed. In the latter half of 2016, many unaccompanied minors have had their age adjusted to 18 summarily by the Migration Agency because they have not been able to provide information proving their stated age. The Swedish Bar Association has recommended their members not to request an age assessment examination as the results were indecisive and could be to the detriment of their clients.

The Agency does not need to have probative evidence for claiming the child is 18. The change in age can only be established when a decision is taken in the asylum case. This means that the unaccompanied minor will be told on the same day as the decision is conveyed that he or she is 18 years old and given

⁵⁹ RMV, *Återrapportering avseende regeringsuppdrag till Riksmedicinalverket att genomföra medicinska åldersbedömningar*, Ju2016/03931/A, 15 November 2016, available in Swedish at: <http://bit.ly/2g2p7Ak>. Unofficial translation by the author.

⁶⁰ Migration Court of Appeal, MIG 2014:1, UM 2437-13, 11 February 2014, available at: <http://bit.ly/2jQwVWr>.

an arbitrary date of birth which is frequently the date of the decision. Furthermore, he or she will be told to leave the home for unaccompanied minors immediately and risk being transferred to another part of Sweden without having the right to continue his or her education. Therefore, many try to arrange accommodation where they are currently living to be able to continue at school. They also no longer have the support of the custodian in many cases even though the law says that the custodian has the right to continue until the Migration Court has made its decision.

There are cases of 15 year olds who have been told that now they are considered over 18 and therefore must move to accommodation for adults and leave their social network in the community they have been in for a year or more. This occurs despite certificates from teachers, social workers and psychologists, stating that they are underage. There have been a few incidents of suicide attempts by the unaccompanied minor when this takes place. 1,801 Afghan unaccompanied minors had their ages raised to 18 during 2016 and their cases rejected at first instance. The Migration Agency pays no heed to the recommended EU principle that if doubts persist about an applicant's age then the stated age by the child is to be respected.

The Legal Unit of the Migration Agency carried out a review of cases involving age assessment in November 2016. It noted in its report that the following areas for improvement have been identified:⁶¹

- Evidence of age assessment is not always correctly analysed;
- There are deficiencies in the oral inquiry regarding age;
- The applicant is not always given an opportunity to meet the burden of proof and addressing shortcomings in the statement when the age is not deemed probable;
- An incorrect standard of proof is applied.

It would appear with the new system that is about to be launched in February 2017 that age assessments can be requested by the authorities if there are doubts about the stated age. However, according to the government's request to the RMV, if the proposed new tests do not give a clear indication of whether the person is under or over 18, the principle of the benefit of the doubt as per Article 25(5) of the recast Asylum Procedures Directive is to be respected.⁶² Age assessment decisions can also be appealed by the applicant under the new procedure.⁶³

The Migration Agency announced on 18 February 2017 that all pending age assessment procedures would be postponed from this date until the new methods for assessing age can be used.

2. Special procedural guarantees

Indicators: Special Procedural Guarantees

1. Are there special procedural arrangements/guarantees for vulnerable people?

☐ Yes ☒ For certain categories ☐ No

❖ If for certain categories, specify which: Unaccompanied minors

Applicants who are mentally handicapped and unable to act as a legally competent person must have a guardian appointed by the County Court. No investigation shall take place until such a person has been appointed.⁶⁴

⁶¹ Migration Agency, *Tematisk kvalitetsuppföljning av åldersbedömning i samband med beslut om uppehållstillstånd*, 1.34-2016-178414, 28 November 2016.

⁶² Ministry of Justice, Uppdrag till Rättsmedicinalverket att genomföra medicinska åldersbedömningar, Ju2016/03931/Å, 19 May 2016, available in Swedish at: <http://bit.ly/2jyacNV>.

⁶³ See AIDA, 'Sweden: Proposal to introduce right to appeal age assessment', 25 November 2016, available at: <http://bit.ly/2krGKcU>.

⁶⁴ Migration Agency, *Rättsligt ställningstagande angående handläggning av psykiskt funktionshindrades 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)*, 16 February 2012, RCI 05/2012, available at: <http://bit.ly/1mzE6Dr>.

If special reports are needed to verify trauma of various kinds, the Migration Agency can grant an extension of the normal procedure time to accommodate this need and to collect additional documentation. Sometimes the applicant is not given enough time to do so.

When implementing the Asylum Procedures Directive, Sweden has seen no use of changing or modifying existing legislation, due to the new Article 24 on applicants in need of special procedural guarantees, even though many authorities and organisations, including Swedish Migration Agency, Swedish Red Cross and UNHCR, saw a need to do so.⁶⁵

Unaccompanied children and other vulnerable groups are not *per se* exempted from the accelerated procedure, although individual assessments of the appropriate track to be applied may be made continuously. Track 4 may be applied to an unaccompanied minor who has an unfounded claim and who can be accommodated in reception facilities in the country of origin (see [Regular Procedure: General](#)).

3. Use of medical reports

Indicators: Use of medical reports

1. Does the law provide for the possibility of a medical report in support of the applicant's statements regarding past persecution or serious harm?
☒ Yes ☐ In some cases ☐ No
2. Are medical reports taken into account when assessing the credibility of the applicant's statements?
☒ Yes ☐ No

The Aliens Act does not contain any guidelines for medical examinations and there are no routine or standard procedures to refer victims of trauma to a medical examination. The matter is under investigation by the Migration Agency but so far there are no institutionalised procedures.

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 expressly 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 *R.C. v. Sweden* ruling of the European Court of Human Rights (ECtHR),⁶⁶ however, Sweden has been reminded of the obligation on 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.

The Migration Court of Appeal specified the investigative duty of the migration authorities in a case concerning a Moroccan applicant in September 2014, and confirmed the principles of *R.C. v. Sweden*. The applicant had a certificate from a general practitioner in his home country indicating injuries from torture.⁶⁷

In such a case, the Migration Agency or the Migration Court is obliged to request an expert medical examination of the person, based on the Istanbul Protocol, and to pay for those costs. 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 Agency. In 2012, the then Migration Board published guideline notes drafted by its Legal Unit, outlining when medical reports should

⁶⁵ Genomförande av det omarbetade asylprocedurdirektivet (Travaux préparatoires to the transposition of the recast Asylum Procedures Directive), 2016/17:17, available at: <http://bit.ly/2IRb9Cn>.

⁶⁶ ECtHR, *R.C. v. Sweden*, Application No 41827/07, 9 June 2010.

⁶⁷ Migration Court of Appeal, MIG 2014:21, UM3739-14, 23 September 2014, available at: <http://bit.ly/2jPcQ5f>.

be requested by the authority e.g. when there is evidence of torture.⁶⁸ 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 cases where:

- (a) Injuries are not disputed;
- (b) The Migration Agency intends to grant the applicant refugee status or alternative protection status;
- (c) The applicant's narrative contains extensive credibility gaps; and
- (d) 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.

There have been some instances in 2016 of applicants who have themselves or through the lawyer stated that they are victims of torture but a full investigation was denied, because in the *R.C.* case a non-specialist medical report had been handed in, which should have signalled to the authorities that a deeper investigation needed to be made. However, since no such certificate was handed in, the Agency refused to instigate an expert examination. It has proven difficult to get general practitioners to write formal certificates and express an opinion on the results of torture since they are aware that they are not specialists. If the Migration Agency 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. This can be done through specialist institutions and through the Swedish Red Cross Treatment Centre for persons affected by war and torture. Swedish Red Cross has highlighted the lack of access to proper investigation in situations where an asylum seekers claim he or she has been subject to torture in a 2014 report.⁶⁹

4. Legal representation of unaccompanied children

Indicators: Unaccompanied Children

1. Does the law provide for the appointment of a representative to all unaccompanied children?
- ☒ Yes ☐ No

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. Guardians need to be persons of high moral character and may come from different social backgrounds.

Every municipality, which is the responsible entity for the reception of unaccompanied children, has 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 the appointment of a guardian. Guardians are reimbursed for their costs and also receive a nominal fee. No requirements with regard to formal education or specialist knowledge in the field of asylum are imposed prior to eligible for appointment. All guardians are appointed by the chief guardian in the municipality and in many cases are increasingly 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 Agency offer courses for guardians. With the arrival of an increasing number of unaccompanied children in Sweden, the need for guardians is increasing. In order to maintain a certain level of quality, one national organisation of

⁶⁸ Migration Agency, *Rättsligt ställningstagande angående medicinska utredningar av åberopade skador (Legal guidance on medical investigations and reported trauma)*, 5 July 2012, RCI 20/2012, available at: <http://bit.ly/1QWNxI6>.

⁶⁹ Swedish Red Cross, *Tortyrskador i asylprocessen under lupp. Hur värderas tortyrskador i den svenska asylprocessen*, 2014, available at: <http://bit.ly/1GjCgNH>.

guardians is suggesting there should be a cap placed on the number of children assigned to one guardian. Currently, there are no available statistics on the average number of children represented per 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, the assignment ceases.

The number of unaccompanied minors seeking asylum has plummeted from around 34,000 in 2015 to 2,199 in 2016 with the majority coming from Afghanistan (665), Somalia (421) and Syria (180).

E. Subsequent applications

Indicators: Subsequent Applications

1. Does the law provide for a specific procedure for subsequent applications? ☒ Yes ☐ No
2. Is a removal order suspended during the examination of a first subsequent application?
 - ❖ At first instance Depending on the grounds raised
 - ❖ At the appeal stage Depending on the grounds raised
3. Is a removal order suspended during the examination of a second, third, subsequent application?
 - ❖ At first instance ☐ Yes ☒ No
 - ❖ 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 for newly arising circumstances to be considered under the grounds of “impediments to enforcement”. Such new circumstances may give rise to a residence permit on humanitarian grounds or practical obstacles to removal,⁷⁰ or, if such a permit cannot be granted, lead to a re-examination of the initial case.⁷¹

Under Section 18 of the Aliens Act, the Migration Agency may grant a residence permit where “new circumstances come to light that mean that:

- (1) there is an impediment to enforcement under [Article 3 ECHR or Article 33 of the 1951 Refugee Convention];⁷²
- (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”.

If the impediment is only temporary, the Agency may grant a temporary residence permit or order the suspension of the removal order. Where the impediment is of a “lasting nature”, however, a permanent residence permit may be granted.⁷³ Decisions made pursuant to this provision cannot be appealed before the Migration Court and are final.

Conversely, Section 19 of the Aliens Act deals with subsequent applications invoking new circumstances where:

- (1) these new circumstances “can be assumed to constitute a lasting impediment to enforcement referred to in [Article 3 ECHR or Article 33 of the 1951 Refugee Convention];⁷⁴ 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”.

⁷⁰ Ch. 12, Section 18 Aliens Act.

⁷¹ Ch. 12, Section 19 Aliens Act.

⁷² Ch. 12, Sections 1-2 Aliens Act.

⁷³ Ch. 12, Section 18 Aliens Act.

⁷⁴ Ch. 12, Sections 1-2 Aliens Act.

Where these 2 cumulative criteria are met, and if a residence permit on humanitarian grounds cannot be granted, the Migration Agency must re-examine the case. Sur place reasons such as conversion to a new religion after a final decision can be grounds for reopening the case if there is a risk of persecution in the home country. The Migration Agency has no discretion to re-examine the application where these conditions are not met, however.⁷⁵

Section 19 therefore concerns new grounds for international protection and not humanitarian grounds or practical problems in enforcing expulsion. Accordingly, a negative decision on a subsequent application may be appealed. Submissions are made in writing and an oral hearing rarely takes place. There is no limitation in the number of subsequent applications that can be submitted, insofar as new grounds for protection are presented.

The refusal of entry or expulsion order may not be enforced before the Migration Agency has decided on the question of whether there will be a re-examination or, if such 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 either not to grant re-examination, or to refuse a subsequent application on the merits, 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 the normal time-limit of 3 weeks following receipt of the negative decision.

In 2016 8,486 subsequent applications were submitted and decisions taken in 7,921 cases. 327 were granted permits on protection grounds, 5 on medical grounds, 445 on other grounds and 27 based on impediments to expulsion.⁷⁶

This requirement of providing a valid reason for not presenting new circumstances at an earlier stage can in practice undermine the absolute protection of Article 3 ECHR. In Swedish practice cases involving a real risk of treatment mentioned in Article 3 ECHR can risk being ignored if the applicant is deemed not to have had valid reasons for not presenting the facts earlier. It is worth noting, nevertheless, that this provision of the Aliens Act is in line with the rules laid down by Article 40(4) of the recast Asylum Procedures Directive on subsequent applications.

There is no free legal assistance in submitting a subsequent application. However, if the application is admitted for re-examination by the Migration Agency – or through a stay in the expulsion order at court level if the Migration Agency's decision is appealed – legal counsel can be appointed. Asylum seekers can also approach NGOs for advice. However, the procedure is written and complex with statistically little chance of changing the negative decision, and applicants also have no access to free interpretation. It should also be noted that some NGOs have cut back their services to asylum seekers while others such as the Swedish Advisory Centre for refugees and asylum seekers are expanding their services in cooperation with the Church of Sweden.

⁷⁵ Ch. 12, Section 19 Aliens Act.

⁷⁶ Migration Agency, *Annual Report 2016*, para 4.2.1.

F. The safe country concepts

Indicators: Safe Country Concepts

- | | |
|--|---|
| 1. Does national legislation allow for the use of “safe country of origin” concept? | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| ❖ Is there a national list of safe countries of origin? | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| ❖ Is the safe country of origin concept used in practice? | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| 2. Does national legislation allow for the use of “safe third country” concept? | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| ❖ Is the safe third country concept used in practice? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| 3. Does national legislation allow for the use of “first country of asylum” concept? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |

1. Safe country of origin

The safe country of origin concept is not applicable in Sweden. It is worth noting, however, that applications from specific countries of origin such as the Western Balkan states are treated as “manifestly unfounded” claims (see section on [Differential Treatment of Specific Nationalities in the Procedure](#)). The Migration Agency has also dedicated a specific procedural track, Track 4B, to persons coming from nationalities with generally low recognition rates, and whose claims may be processed faster.

2. Safe third country

The “safe third country” concept is not a ground for inadmissibility in Sweden as there is no admissibility procedure *stricto sensu*. There is no list of safe third countries. However, following the large influx of arrivals in 2015, the Swedish government has publicly announced that it is positive to the development of common standards within the EU to this regard.

Albeit without defining a “safe third country” concept, Chapter 5, Section 1b(3) provides that an application may be dismissed if the applicant can be returned to a country where he or she:

- Does not risk being subjected to persecution;
- Does not risk suffering the death penalty or being subjected to corporal punishment, torture or other inhuman or degrading treatment or punishment;
- Is protected against being sent on to a country where he or she does not have equivalent protection;
- Has the opportunity to apply for protection as a refugee; and
- Has such ties to the country concerned that it is reasonable for him or her to travel there.

However, in such cases, an application may not be dismissed if:⁷⁷

- (1) The applicant has a spouse, a child or a parent who is resident in Sweden and the applicant does not have equally close family ties to the country to which a refusal-of-entry or expulsion order may be enforced; or
- (2) The applicant, because of a previous extended stay in Sweden with a residence permit or right of residence, has acquired special ties to this country and lacks such ties or ties through relatives to the country to which a refusal-of-entry or expulsion order may be enforced.

Neither case law nor the *travaux préparatoires* to the 2010 amendment of the Aliens Act which introduced the provision clarify the requisite level of protection available to the individual applicant in the third country, to determine whether the person should have access to Refugee Convention status or could be granted a different form of protection.

⁷⁷ Ch. 5, Section 1b(3) Aliens Act.

Sweden saw no reason to amend the existing legislation, when implementing the Recast Asylum Procedures Directive, something that *inter alia* UNHCR and organisations such as Swedish Red Cross recommended. All procedural guarantees were already in place according to the government.⁷⁸

3. First country of asylum

The concept of first country of asylum is defined pursuant to Article 26 of the 2005 Asylum Procedures Directive. A country can be considered to be a first country of asylum for a particular applicant for asylum if:

- (a) He or she has been recognised in that country as a refugee and he or she can still avail him or herself of that protection; or
- (b) He or she otherwise enjoys sufficient protection in that country, including benefiting from the principle of *non-refoulement*;

provided that he or she will be re-admitted to that country.

In applying the concept of first country of asylum to the particular circumstances of an applicant for asylum Member States may take into the [Safe Third Country](#) criteria. It should be noted that Member States are not required to apply the concept of first country of asylum, as Article 26 is a permissive provision.

Sweden saw no reason to amend the existing legislation, when implementing the Recast Asylum Procedures Directive, something that *inter alia* UNHCR and organisations such as Swedish Red Cross recommended. All procedural guarantees were according to the government already in place.⁷⁹

G. Relocation

Indicators: Relocation

1. Number of persons effectively relocated since the start of the scheme 42

Relocation statistics: 2015-2016

Relocation from Italy			Relocation from Greece		
	Received requests	Relocations		Received requests	Relocations
Total	:	42	Total	1	0
Eritrea	:	22	:	:	:
Syria	:	18	:	:	:
Stateless	:	2	:	:	:

Source: Migration Agency.

Sweden participated in the initial launch of the relocation scheme from Italy, before benefitting from an exemption from the Council Decisions for the time being.⁸⁰ Sweden is exempt from relocation obligations until 16 June 2017.⁸¹

⁷⁸ Genomförande av det omarbetade asylprocedurdirektivet (Travaux préparatoires to the transposition of the recast Asylum Procedures Directive), 2016/17:17, available at: <http://bit.ly/2IRb9Cn>, 72.

⁷⁹ Genomförande av det omarbetade asylprocedurdirektivet (Travaux préparatoires to the transposition of the recast Asylum Procedures Directive), 2016/17:17, available at: <http://bit.ly/2IRb9Cn>, 72.

⁸⁰ Council Decision (EU) 2016/946 of 9 June 2016 establishing provisional measures in the area of international protection for the benefit of Sweden in accordance with Article 9 of Decision (EU) 2015/1601, OJ 2016 L157/23.

⁸¹ Article 2 Council Decision (EU) 2016/946.

The main nationalities relocated from Italy in 2015 were Eritrea and Syria, in a process that on average took 4 days. Persons relocated entered the regular asylum procedure, and their claims were fast-tracked by the Migration Agency.

H. Information for asylum seekers and access to NGOs and UNHCR

Indicators: Information and Access to NGOs and UNHCR

1. Is sufficient information provided to asylum seekers on the procedures, their rights and obligations in practice? ☐ Yes ☒ With difficulty ☐ No
 - ❖ Is tailored information provided to unaccompanied children? ☒ Yes ☐ No
2. Do asylum seekers located at the border have effective access to NGOs and UNHCR if they wish so in practice? ☐ Yes ☒ With difficulty ☐ No
3. Do asylum seekers in detention centres have effective access to NGOs and UNHCR if they wish so in practice? ☒ Yes ☐ With difficulty ☐ No
4. 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 ☐ With difficulty ☐ No

The official language of Sweden is Swedish and therefore all decisions are only written in Swedish. The 1994 Ordinance on the Reception of Asylum Seekers states that the Migration Agency must inform the applicants of UNHCR and NGOs that provide services to asylum seekers.⁸² There is also information in a variety of languages available through the Migration Agency on various aspects of the asylum procedure. This information is available on the website,⁸³ and occasionally in printed form or in booklets at reception centres. Special efforts have been made to take into account the needs of information of illiterate persons by frequently using audio-visual methods. The website enables persons to have the text read out to them in Swedish or English. There are plans to make this service available even in other languages, notably Somali. The Agency has also produced material for children both unaccompanied and in families, explaining to them the asylum procedure in seven different languages.⁸⁴ Reception centres for asylum seekers also have leaflets available in a number of languages on the various aspects of the procedure, as well as on conditions of reception. A video explaining the asylum process and procedures has been produced by the Migration Agency in cooperation with NGOs. This video is frequently shown in the waiting room for asylum seekers. 7 to 12 languages – depending on the subject matter – have been selected, in which information is provided. The languages selected correspond to the main nationalities of asylum seekers arriving in Sweden in recent years (Syria, Somalia, Eritrea, Kosovo, Afghanistan, Iraq, Albanian, Serbia, Ukraine, Libya, Mongolia, Russia, Georgia, Nigeria, Azerbaijan and Iran).

The Migration Agency has also produced leaflets in the above languages containing specific information on the Dublin III Regulation, namely on the Dublin criteria determining the Member State responsible,⁸⁵ as well as on Dublin procedures followed after a country other than Sweden has been deemed responsible.⁸⁶ There is also a specific leaflet for unaccompanied minors regarding the Dublin Regulation, as per Article 4(3) of the Dublin III Regulation.

⁸² Section 2a Ordinance on the reception of asylum seekers.

⁸³ Migration Agency, *Protection and Asylum in Sweden*, available at: <http://bit.ly/1sHzLfA>.

⁸⁴ Migration Agency, *For Children*, available at: <http://bit.ly/1Feg3vm>.

⁸⁵ Migration Agency, *"I have asked for asylum in the EU – which country will handle my claim?"*, available at: <http://bit.ly/1PSuhgz>.

⁸⁶ Migration Agency, *"I am in the Dublin procedure – what does this mean?"*, available at: <http://bit.ly/1LRjmgH>.

Furthermore, at every stage of the asylum procedure, caseworkers have a duty to explain in their meetings with applicants the next stage of the procedure to each applicant. After a refusal at the first instance, each applicant is summoned to a meeting at the nearest office of the Migration Agency's 39 reception offices to discuss their situation and to be provided with information on the possible future outcomes of their case.

Information is also provided by NGOs, notably in this field by the Swedish Network of Refugee Support groups (FARR), which publishes on its website an 88-page booklet entitled *Goda Råd* (Good Advice), updated in January 2017.⁸⁷ This information on the entirety of the procedure focuses on what asylum seekers can do themselves to contribute to a fair process and contains links to other NGOs in Sweden. This information is available and can be downloaded in English, Swedish, Arabic, Russian, Spanish and Persian. The Swedish Refugee Advisory Centre and the Swedish Office of Amnesty International also provide online information in a number of languages which is of relevance to asylum seekers. The Church of Sweden has online information about asylum and migrations issue on its website under the heading Support Migration, currently only in Swedish.⁸⁸

There are some refugee groups that have formed their own organisations to support asylum seekers. One is the Swedish branch of the International Federation of Iranian Refugees (IFRS). Unaccompanied minors have also organised themselves in two different associations which provide advice and support to newly arrived unaccompanied children.⁸⁹

Information is also available at the detention centres to which UNHCR and NGOs have access. All detention centres have computers available with internet access for all detainees. Legal counsel also has an obligation to provide information on the asylum procedures to the client.

Despite all these efforts more needs to be done by all actors to make relevant information available in reality at the appropriate time for all asylum seekers taking into account their specific needs.

I. Differential treatment of specific nationalities in the procedure

Indicators: Treatment of Specific Nationalities

1. Are applications from specific nationalities considered manifestly well-founded? ☒ Yes ☐ No
❖ If yes, specify which: Syria, Eritrea
2. Are applications from specific nationalities considered manifestly unfounded?⁹⁰ ☒ Yes ☐ No
❖ If yes, specify which: Western Balkan countries

Sweden is one of the main destinations of Syrian asylum seekers. In 2016, of a total of 28,939 applicants 5,459 came from Syria, 2,758 from Iraq, 1,151 from Eritrea, 1,339 were stateless, 1,646 came from Somalia and 2,969 from Afghanistan.

The recognition rate at first instance is 60% including Dublin cases and 77% if Dublin cases are excluded. The Migration Courts approved 5% of appeals. (This cannot be added to the recognition rate at the Migration Agency).

The recognition rate for **Syrians** for 2016 at first instance was 91% including Dublin and 100% otherwise. 44,218 Syrian applications were granted protection, which in the vast majority of cases was subsidiary protection. For **Eritrea** the recognition rate was 91% / 99% with 5,995 permits granted. For **Afghanistan** 28% / 45% with 3,464 permits granted. **Stateless** applicants were granted asylum in 85% / 94% of cases with 5,833 permits granted. **Somali** recognition rates were 44% / 59% respectively with 1,723 cases

⁸⁷ FARR, *Good Advice for Asylum Seekers in Sweden*, January 2017, available at: <http://bit.ly/2jq1juE>.

⁸⁸ Available at: <http://bit.ly/2IZj6HI>.

⁸⁹ <http://www.sef-riks.se/> and <http://ensamkommandesforbund.se/>.

⁹⁰ Whether under the "safe country of origin" concept or otherwise.

approved. Recognition rates for **Iraq** were 17 % / 45% with 1,745 cases approved. For **Iran** the rates are 29% / and 60% respectively with 678 cases approved.

Many applicants from the Balkan countries have their cases treated as manifestly unfounded even if they are individually assessed. Decision-making resources are diverted to this group when there is a large influx of applicants in order not to miss the 3-month time limit for dealing with a case as manifestly unfounded (see section on [Accelerated Procedure](#)). Even though Sweden only registers the nationality of asylum seekers and not their ethnicity, many asylum seekers in this group are of Roma origin. Similar procedures are followed with regard to asylum applications from Mongolia.

Reception Conditions

A. Access and forms of reception conditions

1. Criteria and restrictions to access reception conditions

Indicators: Criteria and Restrictions to Reception Conditions

- Does the law make material reception conditions to asylum seekers in the following stages of the asylum procedure?

❖ Regular procedure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Dublin procedure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ First appeal	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Onward appeal	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Subsequent application	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
- Is there a requirement in the law that only asylum seekers who lack resources are entitled to material reception conditions?

<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> 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, as the provision of reception conditions is conditional upon lack of sufficient resources. The lack of resources is established at the initial interview with a reception officer of the Migration Agency at the moment when the asylum seeker lodges the asylum application.

However, applicants lodging a subsequent application do not have access to the full set of material reception conditions. If they are single adults or couples, they lose their right to accommodation and allowances 4 weeks after the expulsion order gains legal force. They are not able to get subsidised health care or medicines. If they are a family with children, they are entitled to a reduced allowance as adults but standard allowance for children and have a right to accommodation.

2. Forms and levels of material reception conditions

Indicators: Forms and Levels of Material Reception Conditions

- Amount of the monthly financial allowance/vouchers granted to asylum seekers as of 31 December 2016 (in original currency and in €):

Category of applicant	Allowance in accommodation centres with food provided	Allowance in private accommodation
Single adult	720 SEK / €76	2130 SEK / €225
Adults sharing accommodation	570 SEK / €60 per person	1830 SEK / €193 per person
Child aged 0-3	360 SEK / €38	1110 SEK / €117
Child aged 4-10	360 SEK / €38	1290 SEK / €136
Child aged 11-17	360 SEK / €38	1500 SEK / €158

From the third child onwards, allowance is reduced by 50%.

Housing

Housing offered by the Migration Agency is either in an apartment, in a normal housing area or at a reception centre. Asylum seekers can choose to live at a centre but in that case they might need to move to a town where the Migration Agency can offer them a place. For decades, the general Swedish approach to accommodating asylum seekers has been based on a dispersal or solidarity principle where the “whole of Sweden” model is at the forefront. This means that every municipality is expected to be ready to accommodate asylum seekers. To facilitate this, each County Administrative Board encourages municipalities to sign agreements with the Migration Agency. The majority of municipalities have done this and the recalcitrant ones have been chastised in some contexts. The government is seriously considering whether to make the reception of asylum seekers mandatory, as it already is for the reception

of unaccompanied minors. Such a proposal has not been presented, however the reception of asylum seekers granted permission to stay has been made mandatory by law in all municipalities.⁹¹

If asylum seekers have money of their own, they must pay for accommodation themselves. If not, accommodation at a centre 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.

When 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 their 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 Agency's centres that has capacity.

Financial allowance

The level of asylum financial support was set in 1994 and has not been raised or adjusted since. The monthly amounts of financial allowances differ for applicants staying in accommodation centres where food is provided free of charge (and the allowance only covers pocket money), and applicants staying in other accommodation, where the allowance should also cover food.

In any event, beyond food, the allowance should be able to cover 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 Agency, they receive a bank card where the money is deposited.

The levels of financial allowance are as follows:

Category of applicant	Allowance in accommodation centres with food provided	Allowance in private accommodation
Single adult	720 SEK / €76.50	2,130 SEK / €225
Adults sharing accommodation	570 SEK / €60 per person	1,830 SEK / €194 per person
Child aged 0-3	360 SEK / €38	1,110 SEK / €117
Child aged 4-10	360 SEK / €38	1,290 SEK / €136
Child aged 11-17	360 SEK / €38	1,500 SEK / €158

From the third child onwards, the level of financial allowance is reduced by 50%. Some NGOs have campaigned for these levels to be adjusted to the increase in living costs and for the elimination of discrimination against third and subsequent children in relation to the amount of money that is made available. But so far to no avail.

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 sums are not enough to buy new products only second-hand or used. This special contribution may in some cases be submitted for charges for medical, pharmaceutical and dental costs, which are partly subsidised.

However, the relatively low level of 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. It must be noted that the allowance for asylum seekers is considerably lower than the allowance for Swedish nationals in need

⁹¹ Lag (2016:38) om mottagande av vissa nyanlända invandrare för bosättning, Official Journal 2016:38.

of social assistance, which covers similar areas of support. The following table relating to the amount of the monthly social welfare allowance as of January 2017 illustrates this difference:

Category	Asylum seekers	Swedish nationals on social welfare
Single adult	2,130 SEK / €225	3,930 SEK / €415
2 adults	3,660 SEK / € 387	6,430 SEK / €680
1 adult 1 child (aged 2)	3,240 SEK / €342	6,140 SEK / €649
1 adult 2 children (aged 2-5)	4,530 SEK / €479	8,510 SEK / €900
2 adults 2 children (aged 5-12)	6,160 SEK / €651	12,100 SEK / €1,280
2 adults 3 children (aged 2-5-12)	7,020 SEK / €742	14,430 SEK / €1,525
2 adults 4 children (aged 12-14-15-17)	8,160 SEK / €862	20,670 SEK / €2,185

Sources: National Social Welfare Board; Migration Agency.

3. Reduction and withdrawal of material reception conditions

Indicators: Reduction or Withdrawal of Reception Conditions

1. Does the law provide for the possibility to reduce material reception conditions?
☒ Yes ☐ No
2. Does the legislation provide for the possibility to withdraw material reception conditions?
☒ Yes ☐ No

Under the Law on the Reception of Asylum Seekers (LMA), reductions in the asylum seeker's allowance can be made for adults if they refuse to cooperate in the asylum procedure or refuse to respect an expulsion order. Lack of cooperation may consist e.g. in refusing to take measures to obtain identity documents or refusing to appear at arranged appointments with the Migration Agency. Such a restriction of material reception conditions is not permitted in respect of children, however.

The lowest level of reduction is 24 SEK (€2.54) per day but the intermediary level of 42 SEK (€4.44) per day is the one most frequently used. Asylum seekers have the right to appeal these decisions to the County Administrative Court, however appeals are almost always rejected. These reductions are phased and amount initially to 35-40% of the allowance as indicated in the section on [Forms and Levels of Material Reception Conditions](#). Some people whom Sweden is unable to expel can live at this level for many years. Currently, there are 10,479 persons in this situation.⁹² They also lose the right to work after a final decision is taken on their case.

4. Freedom of movement

Indicators: Freedom of Movement

1. Is there a mechanism for the dispersal of applicants across the territory of the country?
☒ Yes ☐ No
2. Does the law provide for restrictions on freedom of movement? ☐ Yes ☒ No

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 Agency, asylum seekers are not free to choose their place of residence.

⁹² Migration Agency, *Monthly report December 2016*, January 2017.

The situation was chaotic the last few months of 2015 and in early 2016 and *ad hoc* solutions were applied from day to day depending on where accommodation was available. A new law was introduced so that all municipalities would have to accept persons living in Migration Agency accommodation who have a residence permit.⁹³ All municipalities are also obliged to house unaccompanied minors. This eased some of the pressure on the Migration Agency to find suitable solutions. The government provided extra funding to municipalities in relation to the number of asylum seekers and recognised claimants they had living there. The education system also received extra governmental funding to cope with the high number of children that had arrived and who have a right to education. In the course of 2016 arrivals of new asylum seekers decreased drastically with the implementation of border controls and today the Migration Agency is closing down many reception centres that were used to cope with the increased number of arrivals in 2015 and relocating asylum seekers to other centres,⁹⁴ not without protests in some cases when people are uprooted once again after settling in a community.

B. Housing

1. Types of accommodation

Indicators: Types of Accommodation

1. Number of municipalities with reception centres:⁹⁵ 290
2. Total number of places in the reception centres: 63,063
3. Total number of places in private accommodation: 35,449
4. Total number of places in special accommodation:⁹⁶ 24,196
5. Type of accommodation most frequently used in a regular procedure:
☒ Reception centre ☐ Hotel or hostel ☐ Emergency shelter ☒ Private housing ☐ Other
6. Type of accommodation most frequently used in an accelerated procedure:
☒ Reception centre ☒ Hotel or hostel ☐ Emergency shelter ☐ Private housing ☐ Other

Housing offered by the Migration Agency 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 Agency can offer them a place. Asylum seekers may also choose to opt for private accommodation with friends or relatives. However, the Migration Agency 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.

The preferred forms of accommodation for housing asylum seekers are individual flats which are rented in most municipalities working with the Migration Agency in Sweden. As of 31 December 2016, 63,063 asylum seekers were housed through the Migration Agency, with 51% living in such accommodation. Others have been housed in temporary accommodation of varying quality and been obliged to share accommodation with others.⁹⁷ 35,449 persons have arranged private accommodation for which they receive no special rent allowance. 24,196 are housed in special accommodation for health or other reasons.⁹⁸ The rent is free in accommodation provided for by the Migration Agency, as are electricity and water.

⁹³ Lag (2016:38) om mottagande av vissa nyanlända invandrare för bosättning, Official Journal 2016:38.

⁹⁴ Migration Agency, 'Swedish Migration Agency starts return to smaller organisation', 26 January 2017, available at: <http://bit.ly/2kbqdLG>.

⁹⁵ Both permanent and for first arrivals. This refers to the number of municipalities where the Migration Agency rents flats or other accommodation.

⁹⁶ Special homes for children where they cannot be accommodated with their family for social or health reasons, and safe houses for threatened women.

⁹⁷ Migration Agency, *Monthly report December 2016*, January 2017.

⁹⁸ *Ibid.*

The strains on the reception system led in 2015 to lower standards of accommodation being accepted and to overcrowding because more asylum seekers were required to share the same accommodation. Each asylum seeker had a right to only three square metres of own living space. Emergency solutions were used such as sleeping on arrival at Migration Agency offices and in large sports halls. The intention was to move newly arrived claimants on after a short period in temporary accommodation to better accommodation. This has now been possible with the drop in the number of new arrivals and reception conditions have improved in most cases and returned to previous standards.

Currently, the number of arrivals has dropped from almost 11,000 a week at peak in October 2015 to just under 500 in December 2016 so the pressure is much less intense than previously. As a result, the Migration Agency is planning a phasing-out of as many as 23,500 directly contracted accommodation in spring 2017.⁹⁹

2. Conditions in reception facilities

Indicators: Conditions in Reception Facilities

1. Are there instances of asylum seekers not having access to reception accommodation because of a shortage of places? ☐ Yes ☒ No
2. What is the average length of stay of asylum seekers in the reception centres? 334 days
3. Are unaccompanied children ever accommodated with adults in practice? ☐ Yes ☒ No

Asylum seekers are mainly accommodated in private houses and apartments rented by the Migration Agency or provided by private entrepreneurs in 290 municipalities across Sweden. Apartments are often located in a big apartment building and are considered as reception centres in the Swedish system but this is still on the basis of individual housing within the apartment buildings concerned.

The Migration Agency is responsible for the reception centres and for supervising the accommodation they provide in ordinary flats in regular residential areas and to assist 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 3-room flat than is regularly the case when municipal authorities designate accommodation for citizens.

While there are no reports on restrictions on leisure or religious activities, there are also complaints about the lack of organised activities during the asylum procedure. In some centres, *pro bono* organisations offer different activities and opportunities to learn Swedish in informal ways. The government has now provided considerable funding to NGOs and educational associations to provide meaningful activities for all asylum seekers and to set up venues where asylum seekers can meet other people. Activities can be beginner's courses in Swedish, information about Swedish society and the asylum process, children's activities and outdoor activities including sports.

The average duration of stay in reception centres depends on the situation of the asylum seekers concerned:

Average duration of stay in reception centres: 2016	
Category of applicant	Average stay (days)
Persons returning voluntarily	287
Persons forcibly removed	688
Persons absconding	388
Persons granted permits	464

⁹⁹ Migration Agency, 'Swedish Migration Agency starts return to smaller organisation', 26 January 2017, available at: <http://bit.ly/2kbqdLG>.

Total average	344
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Source: Migration Agency.

While there are no reports on restrictions on leisure or religious activities, there have been complaints about the lack of organised activities during the asylum procedure. In some centres, *pro bono* organisations offer different activities and opportunities to learn Swedish in informal ways. In others, formal courses are arranged by education associations. The government has now provided considerable funding to NGOs and educational associations to provide meaningful activities for all asylum seekers and to set up venues where asylum seekers can meet other people. Activities can be beginner's courses in Swedish, information about Swedish society and the asylum process, children's activities and outdoor activities including sports.

From 1 February 2017 onwards, the Migration Agency no longer has responsibility for organising meaningful activities for asylum seekers. This has been handed over to the County administration authority (*länsstyrelsen*) who in cooperation with civil society will have the overriding responsibility for this. Early intervention regarding asylum seekers involves efforts and activities aimed at men and women who are seeking asylum or who have a residence permit but still live in the Migration Agency accommodation. The aim of the measures is to accelerate the establishment process while making the waiting time, which occurs when the asylum application is examined, more meaningful. Early intervention includes activities which aim to promote the target group's knowledge of Swedish, knowledge of Swedish society and the Swedish labour market and health.

C. Employment and education

1. Access to the labour market

Indicators: Access to the Labour Market

1. Does the law allow for access to the labour market for asylum seekers? ☒ Yes ☐ No
 ❖ If yes, when do asylum seekers have access the labour market? 1 day
2. Does the law allow access to employment only following a labour market test? ☐ Yes ☒ No
3. Does the law only allow asylum seekers to work in specific sectors? ☒ Yes ☐ No
 ❖ If yes, specify which sectors Unskilled sector
4. Does the law limit asylum seekers' employment to a maximum working time? ☐ Yes ☒ No
 ❖ If yes, specify the number of days per year
5. Are there restrictions to accessing employment in practice? ☒ Yes ☐ No

Asylum seekers can be exempted 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 is thus exempted from the need to have one and is hence allowed to work. This right lasts until a final decision on their asylum application is taken, including during appeals procedures, and can extend beyond that if the applicant cooperates in preparations to leave the country voluntarily. If the applicant refuses to cooperate and the case is handed over to the police for expulsion procedures, then the right to work is discontinued.¹⁰⁰

¹⁰⁰ Migration Agency, *Handbok i Migrationsrätt*, section AT-UND, 5.

In 2016 a total 28,427 asylum applicants were granted the right to seek work. 1,271 found work of which 19% were women. 13,766 persons participated in work experience programmes, including 2,113 women and 11,653 men.¹⁰¹

The Migration Agency will no longer administer work experience opportunities for asylum seekers as from 1 January 2017. This is being phased out currently and will mean later that no such opportunities will be available to asylum seekers. However, the right to work remains for those granted permission to do so. Work experience placements will instead be reserved for those with residence permits who are in an establishment programme run by the Employment Agency (*arbetsförmedlingen*).

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. 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 SEK (€40) for a single person and 850 SEK (€100) for a family. Those who obtain jobs are able to improve their economic situation and possibly to switch from being an asylum seeker to a labour market migrant 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 1-year contract or longer, then they must apply for permission to work in Sweden within 2 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 1 year and at most 2. After 4 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.¹⁰²

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 needed in Sweden 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: Access to Education

- | | |
|--|---|
| 1. Does the law provide for access to education for asylum-seeking children? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| 2. Are children able to access education in practice? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> 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 has also been confirmed in law for those children still present in Sweden with an expulsion order and who have absconded with their parents.¹⁰³

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. Nevertheless, once they have gone through this preparatory phase they are not prohibited in theory from taking a vocational course. If a teenager begins a 3-year course at the age of 16 or 17 and is still in Sweden without a permit 2 years

¹⁰¹ Migration Agency, *Annual Report 2016*, para 5.4.

¹⁰² Ch. 4a Aliens Ordinance.

¹⁰³ Swedish Parliament, *Betänkande 2012/13:UbU12 Utbildning för barn som vistas i landet utan tillstånd*, available at: <http://bit.ly/1GfU4uO>.

later, they will be allowed to continue their course. However, persons who are over 18 upon arrival in Sweden have no access to secondary education.

Children also have the right to lessons in their own mother tongue on a regular basis, if there are more than 5 pupils with the same language in the area. Itinerant home language teachers are employed for that purpose.

D. Health care

Indicators: Health Care

- | | | |
|---|---|---|
| 1. Is access to emergency healthcare for asylum seekers guaranteed in national legislation? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| 2. Do asylum seekers have adequate access to health care in practice? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> Limited <input type="checkbox"/> No |
| 3. Is specialised treatment for victims of torture or traumatised asylum seekers available in practice? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> Limited <input type="checkbox"/> No |
| 4. If material conditions are reduced or withdrawn, are asylum seekers still given access to health care? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> Limited <input type="checkbox"/> No |

During the asylum process and until the asylum seeker leaves Sweden or is granted a residence permit, he or she is entitled to necessary medical care as provided by the LMA. However, on 1 June 2016 the LMA was modified so that adults without children can be left without shelter and money if they refuse to leave Sweden voluntarily within 4 weeks of an expulsion order gaining legal force. They must hand in their officially issued bank card and the card that allows them access to subsidised health care to the Migration Agency.

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

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

Children 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 (€5.29) 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 (€2.65) 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 (€5.30) for prescription drugs. That applies to children as well.

The 400 SEK (€42) rule

If an asylum seeker pays more than 400 SEK (€42) for doctor's appointments, medical transportation and prescription drugs within 6 months, they can apply for a special allowance. The Migration Agency can compensate for costs over 400 SEK. The "400 SEK rule" applies individually for adults and common for siblings under 18. Dental and emergency hospital care are not covered.

E. Special reception needs of vulnerable groups

Indicators: Special Reception Needs

1. Is there an assessment of special reception needs of vulnerable persons in practice?
☒ Yes ☐ No

The Swedish Government saw no need to make legislative changes in order to implement the recast Reception Conditions Directive, where special consideration is given to persons with special reception needs, *inter alia* in Article 22.

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 Migration Agency has recently established standards for the reception of vulnerable asylum seekers. Examples of groups of asylum seekers who might be in need of special measures are minors, women, persons with disabilities, people with mental or physical disorders, people who may be vulnerable to harassment due to sexual orientation, gender identity or gender expression or elderly people. Even victims of torture or rape may need special solutions. The absence of a protective network can create additional vulnerability.

The standards set out the following:

“Initial assessment: Prior to initial placement in the Migration Agency's accommodation, the Agency shall ask the applicant if there are any special needs that he or she wishes to invoke before the placement. Where appropriate, the immediate needs are documented in an official note. The matter must urgently be referred to team leaders, decision-makers or other designated officer at the unit for assessment. In case the individual needs safe housing suitable accommodation must be booked. The Accommodation Secretariat notes the particular need and takes this into account when designating accommodation.

Assessment during the asylum procedure: If a special need of safe housing arises during the current stay in Sweden this should always be promptly investigated and documented in the minutes or an official note. The case must be presented to the team leaders, decision-makers or other designated officer at the unit to book accommodation for these special needs. In that case the applicant must be relocated. Relocation takes place primarily at accommodation within the region. If a secure existence cannot be provided through redeployment within the region's regular homes the Accommodations Secretariat must be promptly contacted. Contact with the Accommodation Secretariat shall be documented in an official note. The Accommodation Secretariat has the power to place centrally or relocate to safer places regardless of where in the country they have applied or initially been given a place to live in.”¹⁰⁴

The Migration Agency has opened special accommodation for especially vulnerable people in the three major cities: **Stockholm, Gothenburg and Malmö**. People may stay in those centres based on individual grounds. Initially, there will be 45 such places but they can be increased if there is further need. This includes asylum seekers from ethnic minorities, torture victims, other vulnerable persons or LGBTI persons with individual needs of extra security in housing, although vulnerability is not necessarily associated with group membership.

¹⁰⁴ Migration Agency, *Kvalitetschefens instruktion angående standard för boendeplacering av sökanden med särskilda behov*, I-37/2016, 13 June 2016.

Families with children and unaccompanied children

Occasionally, unaccompanied children under 18 are accommodated in foster families, who may 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.

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.

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.

LGBTI persons

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 the Applicants' Ombudsman, a complaints mechanism within the Migration Agency, or address their complaint to the Discrimination Ombudsman.

The special needs of LGBTI persons are currently being addressed more seriously in the context of housing. The Swedish Association for Gays and Lesbians (RFSL) has successfully lobbied for LGBTI persons' interests and more effort is being made to find suitable solutions, which sometimes can consist in living in student-like corridor facilities. LGBTI persons can be accommodated in specific centres on an individual basis or together with other vulnerable groups in the special centres established by the Migration Agency.

Persons with disabilities

The Migration Agency has special flats available to accommodate the needs of persons who are in wheelchairs. Persons with various forms of physical handicaps can have their needs assessed by the staff of the local municipality, who base 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 Agency. There is a contract with a Folk High School in **Leksand** to accommodate deaf asylum seekers. The Migration Agency can also in cooperation with the police arrange safe houses for threatened individuals, frequently women. In these situations, even the municipal social welfare authority can be involved.

Traumatised persons

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 general legislation in this field.

F. Information for asylum seekers and access to reception centres

1. Provision of information on reception

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 Agency when they lodge their asylum application. Such information is provided by the reception officer of the Migration Agency. 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 Agency 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 Tigrinya on the website of the Migration Agency.

2. Access to reception centres by third parties

Indicators: Access to Reception Centres

1. Do family members, legal advisers, UNHCR and/or NGOs have access to reception centres?
- ☒ Yes ☐ With limitations ☐ No

Since many asylum seekers live in private flats, there is no problem of access for any interested groups or individuals. Even the new temporary housing buildings are accessible to groups and individuals who wish to make contact. There is frequent involvement by the general public throughout Sweden in making new contacts. A minority have expressed hostility and a number of potential accommodation solutions for asylum seekers during the latter half of 2015 and early 2016 were subjected to arson attacks.

The Swedish Law on the Reception of Asylum Seekers (LMA) provides that information should be provided to all asylum seekers on organisations providing assistance to asylum seekers.

G. Differential treatment of specific nationalities in reception

There should be no institutionalised difference in treatment with respect to nationality. However, if a person belongs to a vulnerable group, solutions are sought based on the individual's needs (see [Special Reception Needs](#)). Some voices have been raised during 2016, claiming that Christian asylum seekers should be given separate accommodation, but the Migration Agency has not supported this proposal.

Detention of Asylum Seekers

A. General

Indicators: General Information on Detention

1. Total number of persons detained in 2016: ¹⁰⁵	3,714
2. Number of persons in detention at the end of 2016:	349
3. Number of detention centres:	5
4. Total capacity of detention centres:	357

Four authorities have the power to make decisions on detention in Sweden. The police authority can make such a decision before asylum seekers have their asylum case registered at the Migration Agency 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.¹⁰⁶ The police are also responsible for taking decisions on detention when the Migration Agency has handed over the responsibility for a person's case to them. This happens when the Migration Agency 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 Agency can take decisions on detention as long as they are handling the asylum case or an application for a residence permit.¹⁰⁷ 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, e.g. in cases regarding expulsion due to criminality or to a security threat, it is the responsible Secretary of State who decides whether an alien should be detained or not.¹⁰⁸ The police are also allowed to place an alien in detention, even if this is not their formal responsibility, when circumstances so require e.g. 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.¹⁰⁹

In the current system, the officers of the Migration Agency are not allowed to use coercive 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.¹¹⁰

In 2016 3,714 persons were detained, including: 108 children of which 50 girls and 58 boys; 3,606 adults of which 419 women and 3,187 men. The average period of detention for children was 3.9 days. For adults, it was 27.3 days and for the whole group 26.6 days. This illustrates a steady rise in the use of detention in Sweden:

Detentions ordered in Sweden: 2011-2016						
Year	2011	2012	2013	2014	2015	2016

¹⁰⁵ Including *both* applicants detained in the course of the asylum procedure and persons lodging an application from detention.

¹⁰⁶ Ch. 10, Section 13 Aliens Act.

¹⁰⁷ Ch. 10, Section 14 Aliens Act.

¹⁰⁸ Ch. 10, Section 15 Aliens Act.

¹⁰⁹ Ch. 10, Section 17 Aliens Act.

¹¹⁰ Ch. 12, Section 14 Aliens Act.

Number	1,941	2,564	2,893	3,201	3,524	3,714
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In Sweden, there are five detention centres (**Gävle, Märsta, Flen, Kålleröd** and **Åstorp**) with a total of nine units and an overall capacity of 357 persons.¹¹¹

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 applicants in Dublin procedures abscond before an attempt to remove takes place.

There have been no reports of overcrowding in the detention centres. The average use of capacity was 89% during 2016.

B. Legal framework of detention

1. Grounds for detention

Indicators: Grounds for Detention

- In practice, are most asylum seekers detained
 - ❖ on the territory: ☐ Yes ☒ No
 - ❖ 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

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.

Under Ch. 10, Section 1 of the Aliens Act, an alien, whether an asylum seeker or irregular migrant, over the age of 18, may be detained where:

- (1) His or her identity is unclear and cannot be established with probability; *and*
- (2) "The right of the alien to enter or stay in Sweden cannot be assessed anyway."¹¹²

Moreover, an alien may be detained:

- (1) Where it is necessary for the investigation of his or her right to remain in Sweden;
- (2) Where it is probable that he or she will be refused entry or will be expelled; or
- (3) For the purpose of deportation.¹¹³

In principle, detention under points (2) and (3) of para 2 can only be ordered if there are some reasons to presume that, but for detention, the alien will abscond or will engage in criminal activities in Sweden.¹¹⁴

Detention can be applicable in so called Dublin cases, pursuant to Article 28 of the Dublin III Regulation. The Migration Court of Appeal ruled in 2015 that in Dublin cases, the Aliens Act provisions regarding

¹¹¹ Migration Agency, *Annual Report 2016*.

¹¹² Ch. 10, Section 1, para 1 Aliens Act.

¹¹³ Ch. 10, Section 1, para 2 Aliens Act.

¹¹⁴ Ch. 10, Section 1, para 2 Aliens Act.

detention are not applicable. The threshold for when detention can be used according to the Dublin Regulation must be met.¹¹⁵

While the first ground for detention for the purpose of establishing identity is in line with the recast Reception Conditions Directive,¹¹⁶ the second set of permissible grounds for detention seems to raise tensions with the Directive in a number of respects:

- Firstly, the provision allowing detention for the purpose of investigating the applicant's right to remain in Sweden seems drafted with considerable width and ambiguity. Under the recast Reception Conditions Directive, Member States may only detain applicants to ascertain their right to enter during a border procedure,¹¹⁷ or to identify elements of the claim that cannot be obtained without detention e.g. where there is a risk of absconding.¹¹⁸ Given that Sweden does not examine applications at the border, the ground in Ch. 10, Section 1(1) of the Aliens Act would only be applicable in applications on the territory. In these cases, however, detention cannot be applied broadly for the purpose of investigating the claim.
- Secondly, the likelihood of a rejection decision does not constitute a lawful reason for detaining an asylum seeker under the grounds of Article 8(3) of the recast Reception Conditions Directive.
- Thirdly, pre-deportation detention *per se* is prohibited in respect of asylum seekers. Article 8(3)(d) of the recast Reception Conditions Directive only permits Member States to detain asylum seekers who lodge a claim for the sole purpose of delaying or frustrating the enforcement decision, while Article 8(3)(f) of the recast Reception Conditions Directive allows detention in Dublin procedures where there is a "significant risk of absconding". Ch. 10 Section 1(3) of the Aliens Act, however, formulates detention for the purpose of deportation much more broadly.

2. Alternatives to detention

Indicators: Alternatives to Detention

1. Which alternatives to detention have been laid down in the law?
☒ Reporting duties
☒ Surrendering documents
☐ Financial guarantee
☐ Residence restrictions
☐ Other
2. Are alternatives to detention used in practice?
☒ Yes ☐ No

Supervision is an alternative measure that may be used instead of detention.¹¹⁹ Authorities are obliged to consider other measures, such as supervision, before deciding on detention. Even though this is in principle always done by the decision body, there have been concerns raised as to the lack of extensive and qualitative argumentation as to why *inter alia* supervision is not used instead of detention.¹²⁰

Supervision entails regular reporting to the police or to the Migration Agency, depending on which authority is responsible for the decision. It may also entail surrendering passports or other identity documents.¹²¹ Supervision was used in 421 cases in 2015. Figures for 2016 are not available.

Similarly to detention, supervision in the asylum context is mainly applied in relation to applicants in Dublin procedures. In 2013, out of a total 405 third-country nationals subject to supervision, only 12 were asylum seekers under the accelerated procedure, while 90 were subject to supervision for the purposes of Dublin

¹¹⁵ Migration Court of Appeal, MIG 2015:5, 3 June 2015, available at: <http://bit.ly/2mzQO8X>.

¹¹⁶ Article 8(3)(a) recast Reception Conditions Directive.

¹¹⁷ Article 8(3)(c) recast Reception Conditions Directive.

¹¹⁸ Article 8(3)(b) recast Reception Conditions Directive.

¹¹⁹ Ch. 10, Section 6 Aliens Act.

¹²⁰ Swedish Red Cross, *Förvar under lupp*. See also comparative study on use of alternatives to detention, where Sweden was one of the studied countries: Odysseus Network, *Alternatives to immigration and asylum detention in the EU. Time for implementation*, 2015, available at: <http://bit.ly/1JX4hMm>.

¹²¹ Ch. 10, Section 8 Aliens Act.

procedures that year. Only 20 children were placed under supervision, including 1 unaccompanied child.¹²² Figures for 2015 and 2016 with regard to grounds are not yet available.

3. Detention of vulnerable applicants

Indicators: Detention of Vulnerable Applicants

1. Are unaccompanied asylum-seeking children detained in practice? ☐ Frequently ☒ Rarely ☐ Never
 - ❖ If frequently or rarely, are they only detained in border/transit zones? ☐ Yes ☒ No
2. Are asylum seeking children in families detained in practice? ☐ Frequently ☒ Rarely ☐ Never

Persons who have been victims of torture or are otherwise vulnerable are not excluded from being detained, despite international recommendations to exclude them.

According to Ch. 10, Section 2 of the Aliens Act, a child may be detained in 2 circumstances:

- (1) "It is probable that the child will be refused entry with immediate enforcement" and "there is an obvious risk that the child will otherwise [abscond] and thereby jeopardise an enforcement that should not be delayed";¹²³ or
- (2) For the purpose of enforcing a refusal of entry or an expulsion order.¹²⁴

In both cases, there is an express condition that alternatives to detention ("supervision") have proved insufficient to meet the purpose pursued.¹²⁵ Children may not be detained for over 72 hours or, in exceptional circumstances, another 72 hours, hence in total maximum 6 days.¹²⁶ A child cannot be separated from its guardians through the detention of either the guardian or the child.¹²⁷ Where the child has no guardian in Sweden, detention may only be applied in exceptional circumstances.¹²⁸

Children are very seldom detained in practice. Figures for 2016 show that 108 children were detained on average for 3.9 days.

4. Duration of detention

Indicators: Duration of Detention

1. What is the maximum detention period set in the law (incl. extensions): 12 months
2. In practice, how long in average are asylum seekers detained? 26.6 days

Generally, detention of aliens may not exceed 2 weeks, unless there are exceptional grounds for longer detention.¹²⁹ Persons who are issued with an expulsion or refusal of entry order may be detained for up to 2 months, with a possibility of extension.¹³⁰ Even if there are such exceptional circumstances, the alien is not detained longer than 3 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 12 months.

¹²² EMN, *The use of detention and alternatives to detention in Sweden*, 2014, 23-24.

¹²³ Ch. 10, Section 2, para 1 Aliens Act.

¹²⁴ Ch. 10, Section 2, para 2 Aliens Act.

¹²⁵ Ch. 10, Section 2, para 1(3) and para 2(2) Aliens Act.

¹²⁶ Ch. 10, Section 5 Aliens Act.

¹²⁷ Ch. 10, Section 3 Aliens Act.

¹²⁸ Ch. 10, Section 3 Aliens Act.

¹²⁹ Ch. 10, Section 4, para 2 Aliens Act.

¹³⁰ Ch. 10, Section 4, para 2 Aliens Act.

The time-limits of 3 and 12 months do not apply if the alien is expelled by ordinary courts because of crimes.

The 2-month time-limit therefore does not apply to asylum seekers throughout the examination of their claim, unless a deportation order has already been issued against them. Asylum seekers are in principle detained for up to 2 weeks. Moreover, detention for the purposes of investigating the alien's right to remain in Sweden under Ch. 10, Section 1, para 2(1) cannot exceed 48 hours.¹³¹

The average period of detention in 2016 was 26.6 days, compared to 18 days in 2015.¹³²

C. Detention conditions

1. Place of detention

Indicators: Place of Detention

1. Does the law allow for asylum seekers to be detained in prisons for the purpose of the asylum procedure (i.e. not as a result of criminal charges)? ☒ Yes ☐ No
2. If so, are asylum seekers ever detained in practice in prisons for the purpose of the asylum procedure? ☒ Yes ☐ No

There are currently five 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 nine units and a total capacity of 357 places.¹³³ 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 detention centres have to take responsibility for all those aliens who have received an expulsion or deportation order. However, 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.¹³⁴ However, a child under 18 may never be placed in a prison or in a police holding centre. There are no special detention centres for children.

The placement of asylum seekers and irregular migrants in police custody units and prisons has been criticised by NGOs and the Council of Europe Committee on the Prevention of Torture (CPT).¹³⁵ As a response, a new form of detention centre, called “transit centre”, was to be set up during 2013 near Arlanda airport. Further reasons for this initiative were the need 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 facility is now in place at **Aby** near Arlanda and has a capacity of 20 places.

¹³¹ Ch. 10, Section 4, para 1 Aliens Act.

¹³² Migration Agency, *Annual Report 2016*, para 5.9.

¹³³ Migration Agency, *Annual Report 2016*, para 5.9.

¹³⁴ Ch. 11, Section 7 Aliens Act.

¹³⁵ See Swedish Red Cross, *Forvar under lupp (Detention centres under the magnifying glass)*, May 2012, available at: <http://bit.ly/2mwdDtU>; CPT, *Report sent to the Swedish Government on the visit to Sweden from 9 to 18 June 2009*, 11 December 2009, available at: <http://bit.ly/2mdQ3Qk>.

2. Conditions in detention facilities

Indicators: Conditions in Detention Facilities

- | | | |
|---|---|--|
| 1. Do detainees have access to health care in practice? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ If yes, is it limited to emergency health care? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

Chapter 11 of 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.¹³⁶ By humane treatment is meant that: (a) the foreigner is always the focal point and their case must be dealt with in a legally safe and expedient manner; (b) a good relationship must be established between the detainee and the staff from the very outset of the detainee's entry to the premises; (c) the foreigner must be able to feel secure and safe in this exposed situation; and (d) the staff must be sensitive to the needs of the detainee.

In 2012, common guidelines were introduced applicable to all detention centre staff members in relation to the registration of the arrival of a detainee and the detainee's departure.

Conditions in detention centres should be as close as possible to those at regular reception centres, run by the Migration Agency. 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.

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.

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.¹³⁷ 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.

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.¹³⁸ 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.

¹³⁶ Ch. 11, Section 1 Aliens Act.

¹³⁷ Ch. 11, Section 7 Aliens Act.

¹³⁸ Ch. 11, Section 8 Aliens Act.

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 Agency 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 Agency'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 Agency 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.¹³⁹ 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.¹⁴⁰ 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 at the same level as other applicants, therefore, requiring, regular visits from nurses and doctors.¹⁴¹ All detainees have access to open air at least 1 hour a day often in a closed courtyard.

In 2011-2012, a project 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. Instead special sections of detention centres are reserved for women.

¹³⁹ Ch. 11, Section 10 Aliens Act.

¹⁴⁰ Ch. 11, Sections 11-12 Aliens Act.

¹⁴¹ Ch. 11, Section 5 Aliens Act.

Inspections are carried out by detentions centres in accordance with the Optional Protocol to the Convention against Torture. In Sweden, the designated National Preventive Mechanism (NPM) identified to carry out the task is the Parliamentary Ombudsman (JO). In 2016, inspection took place in **Gävle**. It can be mentioned that JO remarked that the detainees had at that time no place to store private material in a safe way, and that the detainees reported to be very stressed. However, they thought the staff treated them humanely and with respect. Criticism was directed towards the government due to the lack of proper routines and legislation for situations when detainees are separated due to security reasons.¹⁴²

3. Access to detention facilities

Indicators: Access to Detention Facilities

1. Is access to detention centres allowed to

- | | | | |
|-------------------|---|----------------------------------|-----------------------------|
| ❖ Lawyers: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Limited | <input type="checkbox"/> No |
| ❖ NGOs: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Limited | <input type="checkbox"/> No |
| ❖ UNHCR: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Limited | <input type="checkbox"/> No |
| ❖ Family members: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Limited | <input type="checkbox"/> No |

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.¹⁴³ 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.

D. Procedural safeguards

1. Judicial review of the detention order

Indicators: Judicial Review of Detention

- | | | |
|---|---|-----------------------------|
| 1. Is there an automatic review of the lawfulness of detention? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| 2. If yes, at what interval is the detention order reviewed? | 2 months | |

With the exception of 48-hour detention of persons pending investigation on their right to remain in Sweden (see section on Grounds for Detention above), a detention order must be reviewed within 2 weeks, while detention orders against persons issued with a removal decision are reviewed within 2 months.¹⁴⁴ Review of alternatives to detention ("supervision") is carried out within 6 months.¹⁴⁵

Where time limits are not respected, a decision to detain or hold a person under supervision ceases to be legally binding.¹⁴⁶

¹⁴² JO, *OPCAT Inspection of the Migration Agency detention centre in Gävle of 6-7 September 2016*, available in Swedish at: <http://bit.ly/2mdHzbV>.

¹⁴³ Ch. 11, Section 4 Aliens Act.

¹⁴⁴ Ch. 10, Section 9, para 1 Aliens Act.

¹⁴⁵ Ch. 10, Section 9, para 2 Aliens Act.

¹⁴⁶ Ch. 10, Section 10 Aliens Act.

Each review of a detention order must be preceded by an oral hearing.¹⁴⁷ This also applies to supervision, unless it appears obvious from the nature of the investigation or other circumstances that no hearing is needed.

Depending on the authority responsible for the initial decision to detain, an appeal can be made either to the Migration Agency, 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 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 Agency in the form of a subsequent application. However, a government order must also be reviewed according to the legal time limits.

2. Legal assistance for review of detention

Indicators: Legal Assistance for Review of Detention

- | | | |
|--|---|-----------------------------|
| 1. Does the law provide for access to free legal assistance for the review of detention? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| 2. Do asylum seekers have effective access to free legal assistance in practice? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |

After 3 days in detention, an asylum seeker has access to free legal assistance on detention matters only.¹⁴⁸ Prior to that date, other persons such as a private lawyer, a person with a power of attorney, possibly from an NGO, and the applicant may request a review of the detention order.

However, if an expulsion is planned to take place on the fourth day of detention, it sometimes happens that legal counsel is not appointed promptly.

E. Differential treatment of specific nationalities in detention

There is no information on specific nationalities being more susceptible to detention or systematically detained.

¹⁴⁷ Ch. 10, Section 11, para 1 Aliens Act.

¹⁴⁸ Ch. 18, Section 1, para 1(4) Aliens Act.

A. Status and residence

1. Residence permit

Indicators: Residence Permit

1. What is the duration of residence permits granted to beneficiaries of protection?
 - ❖ Refugee status 3 years
 - ❖ Subsidiary protection 13 months, renewable 2 years
 - ❖ Humanitarian protection 13 months, renewable 13 months

Up until 20 July 2016 the vast majority of residence permits granted to persons in need of international protection or with humanitarian grounds were all permanent. They could, in principle, only be withdrawn if a person spent a major part of their time in another country or if a person was charged with a serious crime that involved deportation. Occasionally temporary permits were granted, mainly for medical reasons or for temporary hindrances to expulsion.

A new system was introduced with the adoption of a temporary law,¹⁴⁹ valid for three years, in July 2016. The new law limits asylum seekers' possibilities of being granted residence permits and the possibility for the applicant's family to come to Sweden. The government openly admitted that the law was proposed in order to deter asylum seekers from coming to Sweden.¹⁵⁰

If a person is considered to be a **refugee**, he or she will receive a refugee status declaration. If he or she is considered to be a person in need of **subsidiary protection**, he or she will receive a subsidiary protection status declaration – an internationally recognised status based on the Qualification Directive.

The third type of protection status according to the Aliens Act, a “person otherwise in need of protection”, is of limited use after July 2016. This protection status can only be given to children and families with children who applied for asylum on or before 24 November 2015, provided that the child in question is still under 18 years old when the decision is made.

Convention **refugees** are, according to the temporary law, granted a three-year temporary permit with the right to **Family Reunification** if the application is made within three months of the reference person receiving their permit. Beneficiaries of **subsidiary protection** will be granted an initial period of 13 months temporary residence permit with no right to family reunification. The permit can be extended another two years if protection grounds persist. The temporary residence permit gives holders the right to live and work in Sweden for three years. During that period the person has the same right to medical care as a person with a permanent residence permit.

Persons whose removal would contravene Sweden's international convention-based obligations and who do not qualify for Convention refugee status or subsidiary protection status can be granted an initial temporary permit of thirteen months which can be prolonged for two years if the grounds persist. If such a permit is granted in a subsequent application, then the permit is first granted for thirteen months and then one year at a time subject to the same grounds. Temporary residence permit gives the person the right to live and work in Sweden for thirteen months. During that period they have the same right to medical care as a person with a permanent residence permit. The person's family is eligible for residence permits to join the sponsor in Sweden only in exceptional cases.

¹⁴⁹ Lag om tillfälliga begränsningar av möjligheten att få uppehållstillstånd i Sverige, 2016:752. For a summary in English, see: <http://www.farr.se/en/att-soeka-asyl/the-temporary-law>.

¹⁵⁰ See e.g. Swedish Government, 'Government proposes measures to create respite for Swedish refugee reception', 24 November 2015, available at: <http://bit.ly/1ILOl9f>.

There are transitional rules for some categories of asylum seekers. Children with families or unaccompanied children who sought asylum at the latest on 24 November 2015 will have their cases assessed according to the previous law. This means they will be granted permanent residence permits if their claims are successful. However, a child who is over 18 when the case is decided on will not benefit from this concession.

Since this is a new system in Sweden, it is hard to predict if there will be any difficulties involved in the renewal of permits. It is predicted that the change puts a considerably higher burden on decision-making bodies, as they and others predict that the handling of the cases for these persons will take longer than before.

The number of days from application to decision on a permit was 328 days in 2016, a considerable increase from 229 days in 2015.¹⁵¹ The number of days from application on prolongation to decision was 367 in 2016, down from 375 in 2015.¹⁵²

2. Long-term residence

Not applicable in the Swedish context given that beneficiaries of international protection were up until recently granted permanent residence permits.

3. Naturalisation

Indicators: Naturalisation

1. What is the waiting period for obtaining citizenship?	
❖ Refugee status, statelessness	4 years
❖ Subsidiary protection	5 years
2. Number of citizenship grants in 2016:	47,308

According to the Citizenship Act (2001:22), in order to acquire citizenship in Sweden, a person must be:

- Be able to prove his or her identity;
- Have reached the age of 18;
- Have a permanent residence permit, a right of residence or residence card in Sweden;
- Have fulfilled the requirements for period of residence (lived in Sweden for a specified period);
- Have good conduct in Sweden.

To become a Swedish citizen, as a rule a person must have lived in Sweden on a long-term basis for a continuous period of five years. Habitual residence means that the person is a long-term resident and intends to remain in Sweden. Whether it is possible to count all the time spent in Sweden as a period of habitual residence depends on the reason why the person settled and the permit he or she has had during his or her time here. The main rule is that time with a residence permit that leads to a permanent residence permit is counted as a period of habitual residence. If the person is a **refugee**, he or she only has to have stayed in Sweden for four years.¹⁵³

If a person had a permanent residence permit or a residence permit for settlement when he or she entered Sweden, he or she counts the duration of stay from the date of arrival. Otherwise, the duration of stay is calculated from the date on which the application for a residence permit was submitted and approved. If the application was initially rejected and the person then submitted a new application, the time is counted from the date on which he or she received approval.

¹⁵¹ Migration Agency, *Annual Report 2016*, 148.

¹⁵² Migration Agency, *Annual Report 2016*, para 5.2.

¹⁵³ Migration Agency, *Citizenship: Time in Sweden*, available at: <http://bit.ly/2n6dqyy>.

If a person is married to, living in a registered partnership with or cohabiting with a Swedish citizen, he or she can apply for Swedish citizenship after three years. In these cases, the couple must have lived together for the past two years. It is not enough to be married to one another; they must also live together.

If the person's partner used to have a nationality other than Swedish nationality or was stateless, he or she must have been a Swedish citizen for at least two years. The applicant must also have adapted well to Swedish society during his or her time in Sweden. Relevant criteria can include the length of the marriage, knowledge of the Swedish language and ability to support oneself.

If the person has previously been in Sweden under an identity that is not his or her correct identity or if he or she have impeded the execution of a refusal-of-entry order by, for example, going into hiding, this may hamper possibilities of obtaining citizenship after three years.

The decision is taken by the Migration Agency and can be appealed to the same instances as in the case of application of status and residence permit. Obstacles in practice could include proving valid stay in Sweden and good conduct in Sweden. Matters that are taken into account include *inter alia* whether the person has not been abiding to the law, and whether the person has managed possible blank loans well, as well as general management of finances (personal and other).

There are no statistics that single out how many beneficiaries of international protection that have obtained citizenship in 2016. Worth noting is however that the majority of persons that handed in an application for citizenship in 2016 had an origin in Somalia, Syria, stateless, Iraq and Afghanistan. The Swedish Migration Agency received 63,960 applications for citizenship and issued decisions in 56,798 cases, out of which 47,308 granted citizenship. Main nationalities granted citizenship include Somalia (7,988), Syria (4,098), stateless (3,624), Iraq (2,939), Thailand (2,180) and Afghanistan (2,103).

The average amount of days from application to decision at first instance was 176 days in 2016.

4. Cessation and review of protection status

Indicators: Cessation

1. Is a personal interview of the beneficiary in most cases conducted in practice in the cessation procedure? ☒ Yes ☐ No
2. Does the law provide for an appeal against the first instance decision in the cessation procedure? ☒ Yes ☐ No
3. Do beneficiaries have access to free legal assistance at first instance in practice? ☒ Yes ☐ With difficulty ☐ No

Swedish legislation on cessation and revocation of status of international protection has changed since implementation of relevant recast EU Directives. Relevant legislation can be found in Chapter 4 of the Aliens Act. There is no up-to-date English translation of the Aliens Act, but it should be noted that Sweden adheres to relevant EU legislation and national law.

According to Chapter 4, paragraph 5, a person ceases to be a **refugee** when he or she: (1) has of his or her own free will used the protection of the country of which he or she is a citizen; (2) voluntarily applies for and regains citizenship of said country; (3) applies for and gets citizenship in another country; (4) returns and resides yet again in the country where he or she used to reside. The person also ceases to be a refugee (5) when the circumstances in connection with which he or she has been recognised as a refugee have ceased to exist, or have changed to such a degree that protection is no longer required.

Chapter 4, paragraph 5a provides that the status of **subsidiary protection** status when when the circumstances in connection with which the person has been recognised as a beneficiary have ceased to exist, or have changed to such a degree that protection is no longer required.

In both status cases, the legislation lists cases when the status not should be considered as ceased. These are connected to circumstances in the past that has led to the granting of protection status, which now leads to the inability to expect of the person to accept to move back.

There is no systematic review taking place in Sweden and there are not many decisions per year taken, to the authors' knowledge. Known cases are often initiated when it comes to the authorities attention that, for example, a person has applied for and used the country of origin passport. In case law, the fact that the burden of proof lies with the Swedish authorities is pointed out.¹⁵⁴

Decisions are taken by Migration Agency. Decisions can be appealed to the Migration Court, and Migration Court decisions can be appealed to Migration Court of Appeal, just as ordinary residence permits decisions. The persons are allowed an interview.

5. Withdrawal of protection status

Indicators: Withdrawal

1. Is a personal interview of the beneficiary in most cases conducted in practice in the withdrawal procedure? ☒ Yes ☐ No
2. Does the law provide for an appeal against the withdrawal decision? ☒ Yes ☐ No
3. Do beneficiaries have access to free legal assistance at first instance in practice?
☒ Yes ☐ With difficulty ☐ No

Swedish legislation on cessation and revocation of status of international protection has changed since implementation of relevant recast EU Directives. Relevant legislation can be found in Chapter 4 of the Aliens Act. There is no up-to-date English translation of the Aliens Act, but it should be noted that Sweden adheres to relevant EU legislation and national law. The procedure is the same as in [Cessation](#).

Of interest to mention both when it comes to cessation and review of protection status as well as withdrawal of protection status, as well as granting of international protection, is that the Swedish Migration Agency, the Swedish Police and the Swedish Security Services have intensified and formalised their co-operation in order to render more efficient the work of identifying those who should not have the privilege of international protection. Over 700 cases regarding residence permits were referred to the Swedish Security Services during the year of 2016. In 43 cases, the Swedish Migration Agency has informed the Police of suspicions *inter alia* of crimes against humanity, genocide. In 68 cases, the Swedish Migration Agency has decided that a person should be excluded from being considered a refugee or in merit of other forms of international protection due to suspicions of the person having committed a serious crime or other actions that can, according to law, lead to exclusion.

Sweden withdrew 57 refugee statuses, 93 subsidiary protection statuses and 2 national protection statuses in 2016. 81 of those concerned Syrian nationals.

¹⁵⁴ Migration Court of Appeal, MIG 2011:13, 13 June 2011, available at: <http://bit.ly/2n4FaA6>.

B. Family reunification

1. Criteria and conditions

Indicators: Family Reunification

1. Is there a waiting period before a beneficiary can apply for family reunification? ☐ Yes ☒ No
 - ❖ If yes, what is the waiting period?
2. Does the law set a maximum time limit for submitting a family reunification application?
For exemption from material requirements ☒ Yes ☐ No
 - ❖ If yes, what is the time limit? 3 months
3. Does the law set a minimum income requirement? ☒ Yes ☐ No

As described in [Residence Permit](#), a new temporary law has introduced new legislation that affects persons' ability to get a residence permit, the length of the residence permit as well as the ability to reunite with their family members. The new law does not affect persons who applied before 24 November 2015.

With the new law, people who are given **refugee status**, i.e. a three-year residence permit, will have the right to be reunited with their nuclear family. People assessed as having **subsidiary protection** status (13-month permit) will have very limited possibilities for family reunification. It is the people who applied for asylum after 24 November 2015 who only have a right to family reunification in exceptional cases.

The temporary law introduces a tougher maintenance requirement. Everyone who wants to bring their family members to Sweden must be able to support both themselves and their family members and must have a home. **Refugees** whose family applies for family reunification within three months are exempt from this requirement.

Persons eligible for family reunification according to the new law are only the closest, nuclear family members. They include:

- Husband, wife, registered partner or cohabiting partner;
- Children under the age of 18 years;
- Other relatives and children over 18 years of age are not eligible to reunite with the sponsor in Sweden if he or she has a temporary residence permit. If the person in Sweden is under 18 years, parents are counted as closest family.

If the beneficiary is given a temporary residence permit, both he or she and the partner must be at least 21 years old before the partner can obtain a residence permit. The couple must also have lived together before they move to Sweden. An exemption can be made from the age requirement if they have common children.

The family of a person with a permanent residence permit has the possibility of applying for residence permits to join in Sweden if the person in Sweden has been given protection status as a refugee. If the person in Sweden has a permanent residence permit, family reunification can also take place with the person he or she plans to marry or cohabit with in Sweden.

The temporary legislation has been heavily criticised by civil society organisations. The government has been open about the purpose behind the introduction of the new restrictive legislation: to discourage persons from trying to reach Sweden. Considering this purpose, the changes have proven effective.

Still in 2016, a drop in cases concerning family reunification did not occur. 53,904 first time applications were handed in in 2016. The average time from application to decision at first instance was 333 days. One important reason for the long waiting time, and an obstacle *per se*, is the waiting time at the embassy

for interview of applicants. It has also been highlighted *inter alia* by civil society organisations that the difficulties in reaching an embassy or a consulate (due to long distances, security constraints), constitutes serious hindrances to achieving and enjoying family reunification.

Major obstacles for individuals in family reunification process also include the need to prove one's identity, a prerequisite by law. In a 2016 ruling from the Migration Court of Appeal, it is established that when circumstances are such that there are obstacles in obtaining proof of identity (such as in the case of Somalia), other circumstances can be enough. Such circumstances include the fact that both spouses have given the same information about their background, how they lived together, family bonds, etc.¹⁵⁵

2. Status and rights of family members

The family members are given a residence permit for reasons of family reunification. When in Sweden, they can apply for status as refugee or person eligible for subsidiary protection, following the same procedure as an asylum seeker.

C. Movement and mobility

1. Freedom of movement

Persons with a residence permit have freedom of movement across the territory. Unless due to a decision of detention, beneficiaries are not assigned to a specific residence for reasons of public interest or public order. As described in [Reception Conditions: Special Reception Needs](#), there are reception centres with a specific profile (LGBTI profile, for instance). There are cases where violence and protests have occurred in reception centres between different nationalities. Such incidents can result in changes of housing arrangements.

2. Travel documents

The regulations covering travel documents are contained in Chapter 2 of the Aliens Ordinance Act (2006:97), supplemented by rules issued by the Migration Agency.

Before the temporary law was introduced on 20 July 2016, all permits granted to asylum seekers were permanent. The travel documents can be issued normally for five years. Unless the person is granted Swedish citizenship in the meantime (see [Naturalisation](#)) he or she will have to apply for a new travel documents after five years.

The travel documents issued to **refugees** are valid for all countries except for their home country. Palestinian refugees under UNRWA protection are granted Convention status.

Persons granted **subsidiary protection** can under certain circumstances be granted an Aliens passport. If they possess a valid national passport they are allowed to keep it but if they are unable to acquire or renew a national passport they can apply for an Aliens passport. This is issued for at most five years at a time and is renewable but its validity can be restricted to certain countries after an individual assessment by the Migration Agency.

Both travel documents and aliens' passports can include information that the identity of the holder has not been fully established. If the beneficiary has been unable to fully substantiate his or her identity, then the refugee travel document or alien's passport is stamped with the phrase "The holder has not proven his/her identity". This means that there can be difficulties travelling between EU countries and even greater

¹⁵⁵ Migration Court of Appeal, MIG 2016:13, 1 June 2016, available at: <http://bit.ly/2mA9OUt>.

difficulties visiting other countries. The UK requires that a Convention refugee in Sweden must apply for a visa in such a case. Such a notification can be removed should the person provide substantial proof of identity.

Travel documents applications are handled by the Swedish Migration Agency.

D. Housing

Indicators: Housing

- | | |
|--|----------|
| 1. For how long are beneficiaries entitled to stay in reception centres? | 2 months |
| 2. Number of beneficiaries staying in reception centres as of 31 December 2016 | 89,562 |

Persons obtaining positive decisions can be placed in municipalities by the Migration Agency based on a quota system. A law was passed in 2016 mandating municipalities to receive those granted residence permits after the asylum procedure.¹⁵⁶ This was done to address the situation where many permit holders were forced to wait many months at the Migration Agency's accommodation and thus delayed their integration into Swedish society. The municipalities now have an obligation to offer them housing within two months from being designated by the Migration Agency as a reception municipality. After that period the responsibility for providing support and housing falls on the municipality.¹⁵⁷

Those granted permits can also find their own accommodation. Should they refuse an offer from a municipality through the Migration Agency, they will no longer receive support or accommodation from the Migration Agency.

E. Employment and education

1. Access to the labour market

When a person is granted a residence permit, he or she is entitled to an "Introduction Plan" to plan his or her education and professional development and provide for language training, courses on Swedish society, vocational training and work experience. The Public Employment Service (*arbetsförmedlingen*) has the responsibility for this for persons between 18 and 64. Help with housing is now the responsibility of the Migration Agency who find suitable housing in municipalities throughout Sweden.¹⁵⁸ However, in some cases, refugees arrange a housing contract themselves. It is only when they have a contract that they can begin their introduction programme and get more financial support for the coming 2 years.

Unemployment rates are low in Sweden, but when it comes to newly arrived with residence permits, it is high. Obstacles to obtaining employment include lack of language skills, complicated process for validation of diplomas, etc., lack of low-skill job opportunities.

The Swedish Council for Higher Education evaluates foreign secondary education, post-secondary vocational education and academic higher education.¹⁵⁹

¹⁵⁶ Lag (2016:38) om mottagande av vissa nyanlända invandrare för bosättning, available at: <http://bit.ly/2mqkzq2>.

¹⁵⁷ Migration Agency, 'Bosättning i en kommun', 20 January 2017, available in Swedish at: <http://bit.ly/2msvG3J>.

¹⁵⁸ Migration Agency, 'Bosättning i en kommun', 20 January 2017, available in Swedish at: <http://bit.ly/2msvG3J>.

¹⁵⁹ See website at: <http://bit.ly/2mWOlpO>.

2. Access to education

Beneficiaries of international protection have full access to education.¹⁶⁰

F. Health care

Persons with a residence permit have the same access to health care as any person living in Sweden. Information about health care can be found at the website www.informationsverige.se. Health care access differs from county to county or region to region.

¹⁶⁰ Centrala studiestödsnämnden, *Refugee – support from CSN*, available at: <http://bit.ly/2msu4Xv>.

ANNEX I – Transposition of the CEAS in national legislation

Directives transposed into national legislation

Directive	Deadline for transposition	Date of transposition	Official title of corresponding act	Web Link
Directive 2011/95/EU Recast Qualification Directive	21 December 2013	26 November 2014	Law (2013/14: SfU20) amending the Aliens Act Entry into force 1 January 2015	http://bit.ly/2m9WuTs (SE)
Directive 2013/32/EU Recast Asylum Procedures Directive	20 July 2015 Article 31(3)-(5) to be transposed by 20 July 2018	16 December 2016	Law (2016:1243) amending the Aliens Act Entry into force 1 January 2017	http://bit.ly/2kP9vkz (SE)
Directive 2013/33/EU Recast Reception Conditions Directive	20 July 2015	-	No transposition, as the Swedish reception system is deemed in line with recast standards	-
Regulation (EU) No 604/2013 Dublin III Regulation	Directly applicable 20 July 2013	17 June 2014	Law (2013/14: SfU20) amending the Aliens Act due to the entry into force revised Dublin Regulation	http://bit.ly/2m9WuTs (SE)