

Country Report: Sweden



2020
Update

Acknowledgements & Methodology

This report was prepared by Martin Nyman at the Swedish Refugee Law Center, and edited by ECRE. 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. The 2016, 2017 and 2018 updates were prepared by Michael Williams of FARR and Lisa Hallstedt. The 2019 update was prepared by Martin Nyman and Peter Varga of the Swedish Refugee Law Center.

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The information in this report is up-to-date as of 31 December 2020, 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 23 countries. This includes 19 EU Member States (AT, BE, BG, CY, DE, ES, FR, GR, HR, HU, IE, IT, MT, NL, PL, PT, RO, SE, SI) and 4 non-EU countries (Serbia, Switzerland, Turkey, United Kingdom) 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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Table of Contents

Glossary & List of Abbreviations	6
Statistics	7
Overview of the legal framework.....	9
Overview of the main changes since the previous report update.....	10
Asylum Procedure	12
A. General	12
1. Flow chart.....	12
2. Types of procedures	13
3. List of authorities intervening in each stage of the procedure	13
4. Determining authority	13
5. Short overview of the asylum procedure.....	17
B. Access to the territory and registration.....	21
1. Access to the territory and push backs	21
2. Registration of the asylum application	22
C. Procedures.....	23
1. Regular procedure (“Track 1 and 2”)	24
2. Dublin (“Track 5A”).....	35
3. Admissibility procedure (“Track 5B” and “Track 5C”).....	44
4. Border procedure (border and transit zones).....	45
5. Accelerated procedure (“Track 4”)	45
D. Guarantees for vulnerable groups	48
1. Identification	48
2. Special procedural guarantees	53
3. Use of medical reports	55
4. Legal representation of unaccompanied children	57
E. Subsequent applications.....	58
F. The safe country concepts.....	60
1. Safe country of origin	60
2. Safe third country	60

3.	First country of asylum	61
G.	Information for asylum seekers and access to NGOs and UNHCR	62
1.	Provision of information on the procedure	62
2.	Access to NGOs and UNHCR	63
H.	Differential treatment of specific nationalities in the procedure.....	64
	Reception Conditions.....	66
A.	Access and forms of reception conditions	66
1.	Criteria and restrictions to access reception conditions.....	66
2.	Forms and levels of material reception conditions.....	68
3.	Reduction and withdrawal of material reception conditions	70
4.	Freedom of movement.....	71
B.	Housing.....	72
1.	Types of accommodation	72
2.	Conditions in reception facilities.....	73
C.	Employment and education	74
1.	Access to the labour market.....	74
2.	Access to education	75
D.	Health care	77
E.	Special reception needs of vulnerable groups	78
F.	Information for asylum seekers and access to reception centres.....	81
1.	Provision of information on reception.....	81
2.	Access to reception centres by third parties	81
G.	Differential treatment of specific nationalities in reception	82
	Detention of Asylum Seekers	83
A.	General	83
B.	Legal framework of detention.....	84
1.	Grounds for detention	84
2.	Alternatives to detention.....	86
3.	Detention of vulnerable applicants.....	86
4.	Duration of detention.....	87
C.	Detention conditions	88

1.	Place of detention	88
2.	Conditions in detention facilities.....	89
3.	Access to detention facilities	92
D.	Procedural safeguards	93
1.	Judicial review of the detention order	93
2.	Legal assistance for review of detention.....	93
E.	Differential treatment of specific nationalities in detention	94
	Content of International Protection	95
A.	Status and residence	95
1.	Residence permit	95
2.	Civil registration.....	97
3.	Long-term residence	97
4.	Naturalisation	98
5.	Cessation and review of protection status	99
6.	Withdrawal of protection status	100
B.	Family reunification	101
1.	Criteria and conditions	101
2.	Status and rights of family members.....	104
C.	Movement and mobility	104
1.	Freedom of movement.....	104
2.	Travel documents.....	105
D.	Housing	105
E.	Employment and education	106
1.	Access to the labour market.....	106
2.	Access to education	107
F.	Social welfare	107
G.	Health care	108
	ANNEX I – Transposition of the CEAS in national legislation	109

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	Swedish Board of Student Finance 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
GREVIO	Group of Experts on Action against Violence against Women and Domestic Violence
JO	Parliamentary Ombudsman
JK	Chancellor of Justice
LGBTQI	Lesbian, gay, bisexual, transsexual, queer and intersex
LMA	Law on the Reception of Asylum Seekers
NPM	National Preventive Mechanism
RFSL	Swedish Federation for Lesbian, Gay, Bisexual, Transgender, Queer and Intersex rights
RMV	National Board of Forensic Medicine Rättsmedicinalverket
SKR	Swedish Association of Local Authorities and Regions Sveriges Kommuner och Regioner
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: 2020

	Applicants in 2020	Pending at end 2020	Refugee status	Subsidiary protection	Humanitarian protection	Rejection	Refugee rate	Sub. Prot. rate	Rejection rate
Total	12,991	7,155	2,913	1,415	41	12,270	17%	8%	71%

Breakdown by countries of origin of the total numbers

Syria	1,208	580	379	955	3	455	20%	51%	24%
Uzbekistan	826	685	14	4	0	1,149	1%	0%	98%
Iraq	782	410	154	47	2	883	14%	4%	79%
Iran	604	683	326	3	0	686	32%	0%	68%
Afghanistan	593	416	310	75	2	424	10%	10%	54%
Ukraine	559	239	0	4	0	456	0%	1%	99%
Eritrea	526	183	387	42	2	125	67%	7%	22%
Mongolia	461	164	0	0	7	338	0%	0%	97%
Somalia	443	262	137	9	5	321	26%	2%	59%
Turkey	412	368	382	1	0	323	53%	0%	45%

Source: Swedish Migration Agency. Other decisions granting a residence permit, i.e. for family reunification purposes, upper secondary education etc. are not included to the table above.

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

Gender/age breakdown of the total number of applicants: 2020

	Number	Percentage
Total number of applicants	12,991	100%
Men	7,910	61%
Women	5,081	39%
<i>Children</i>	<i>3,566</i>	<i>27.5%</i>
<i>Unaccompanied children</i>	<i>500</i>	<i>3.8%</i>

Source: Swedish Migration Agency

Comparison between first instance and appeal decision rates: 2020

	First instance		Appeal	
	Number	Percentage	Number	Percentage
Total number of decisions on merits	17,192	100%	16,477	100%
Decisions granting international protection	4,922	29%	1,124	7%
Rejection	12,270	71%	15,353	93%

Source: Swedish Migration Agency

Overview of the legal framework

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

Title in English	Original Title (SE)	Abbreviation	Web Link
Aliens Act, 2005:716	Utlänningslag (2005:716)	UtlL	https://bit.ly/2Hzrris (SE)
Law on Reception of Asylum Seekers and Others, 1994:137 Law on temporary limitations to the possibility of being granted a residence permit in Sweden, 2016:752 (prolonged on 20 July 2019 [2019:481])	Lag (1994:137) om mottagande av asylsökande Lag (2016:752) om tillfälliga begränsningar av möjligheten att få uppehållstillstånd i Sverige	LMA	https://bit.ly/2ES88Ne (SE) https://bit.ly/2udG0xy (SE) https://bit.ly/2PP4glQ (SE)

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

Title in English	Original Title (SE)	Abbreviation	Web Link
Aliens Act Ordinance, 2006:97	Utlänningsförordningen, 2006:97	UtlF	https://bit.ly/2HM9fkP (SE)
Ordinance on the Act on Reception of Asylum Seekers, 1994:361 Ordinance with Instructions for the Migration Agency, 2019:502	Förordning (1994:361) om lagen om mottagande av asylsökande, 1994:361 Förordning (2019:502) med instruktion för Migrationsverket		https://bit.ly/2jMHsV9 (SE) https://bit.ly/2L7YbPr (SE)

Overview of the main changes since the previous report update

The report was previously updated in **May 2020**.

Asylum procedure

- ❖ **COVID-19 consequences:** The number of asylum applicants arriving in Sweden decreased drastically from 21,984 in 2019 to 12,991 in 2020 (i.e. marking a -41% decrease). This is mainly due to the travel restrictions introduced as a consequence of the Covid-19 situation. The possibility to apply for asylum and registration activities were maintained throughout the year, but Covid-19 further had an impact on the asylum procedure such as postponing asylum interviews or conducting them via videoconferencing. The average length of the asylum procedure (i.e. for all tracks) had significantly decreased from 507 days in 2018 to 288 days 2019, but increased again to a total of 302 days in 2020.
- ❖ **Low recognition rates:** The Migration Agency decided on 50,012 applications for international protection in 2020 and the backlog of pending cases has been reduced by half from 14,890 at the end of 2019 to 7,155 at the end of 2020. However, recognition rates dropped significantly compared to previous years. The overall recognition rate stood at 29% in 2020 compared to 39.7% in 2019. The recognition rate of Syrians decreased from 97% in 2019 to 76% in 2020 as a result of a change in the Migration Agency's assessment of the situation in the country. Other nationalities affected by an important decrease of recognition rates include Eritreans, Somalians and Iranians.
- ❖ **Convention on the Rights of the Child:** The CRC was implemented into Swedish law on 1 January 2020. As a result, the Swedish Migration Agency revised certain of its legal positions and there is an emphasis placed on child related issues. The Migration Court of Appeal also concluded in an important ruling of December 2020 that an expulsion of a 14-year old child who was born and raised in Sweden was unproportionate in light of her connection to Sweden.
- ❖ **Dublin:** The Migration Court of Appeal ruled that a decision by the Migration Agency to not take charge an asylum seeker upon request from another Member State cannot be appealed. No request for a preliminary ruling from the CJEU has been made. While Courts across the EU have not taken a uniform position on this issue, national courts in Germany and the United Kingdom have found that asylum seekers have a right to appeal rejections of take-charge requests.

Reception conditions

- ❖ **Reception capacity:** Access to reception was not restricted during COVID-19 and there are no issues of homelessness or destitution during the asylum procedure. The total number of asylum seekers registered in the reception system decreased significantly from 40,312 in 2019 to 31,634 at the end of 2020. It should also be noted that the Migration Agency implemented a new measure whereby asylum seekers who choose to settle in socio-economically challenged areas are no longer entitled to a daily allowance. The aim of this measure is to combat segregation and encourage more asylum-seekers to settle in areas with better prospects. Recent reports indicate, however, that this legislative change did not result in a change of practice yet, as more than 2,000 asylum seekers settled in such areas between 1 July and 30 December 2020.

Detention of asylum seekers

- ❖ **Impact of COVID-19 on detention:** The number of persons being detained decreased by half from 4,144 in 2019 to 2,528 in 2020 as a consequence of the Covid-19 situation, both as a result of limiting crowding in detention facilities and because of difficulties in enforcing expulsion decision due to travel restrictions. Civil society organisations and detainees raised concerns in relation to the Covid-19

situation and issues reported included overcrowding, the impossibility to follow distancing rules between detainees, and shortcomings in cleaning and hygiene routines.

- ❖ **Grounds for detention:** The Migration Court of Appeal delivered several rulings concerning the detention of asylum applicants, restricting the possibility of the detention of asylum seekers in line with the Reception Conditions Directive.

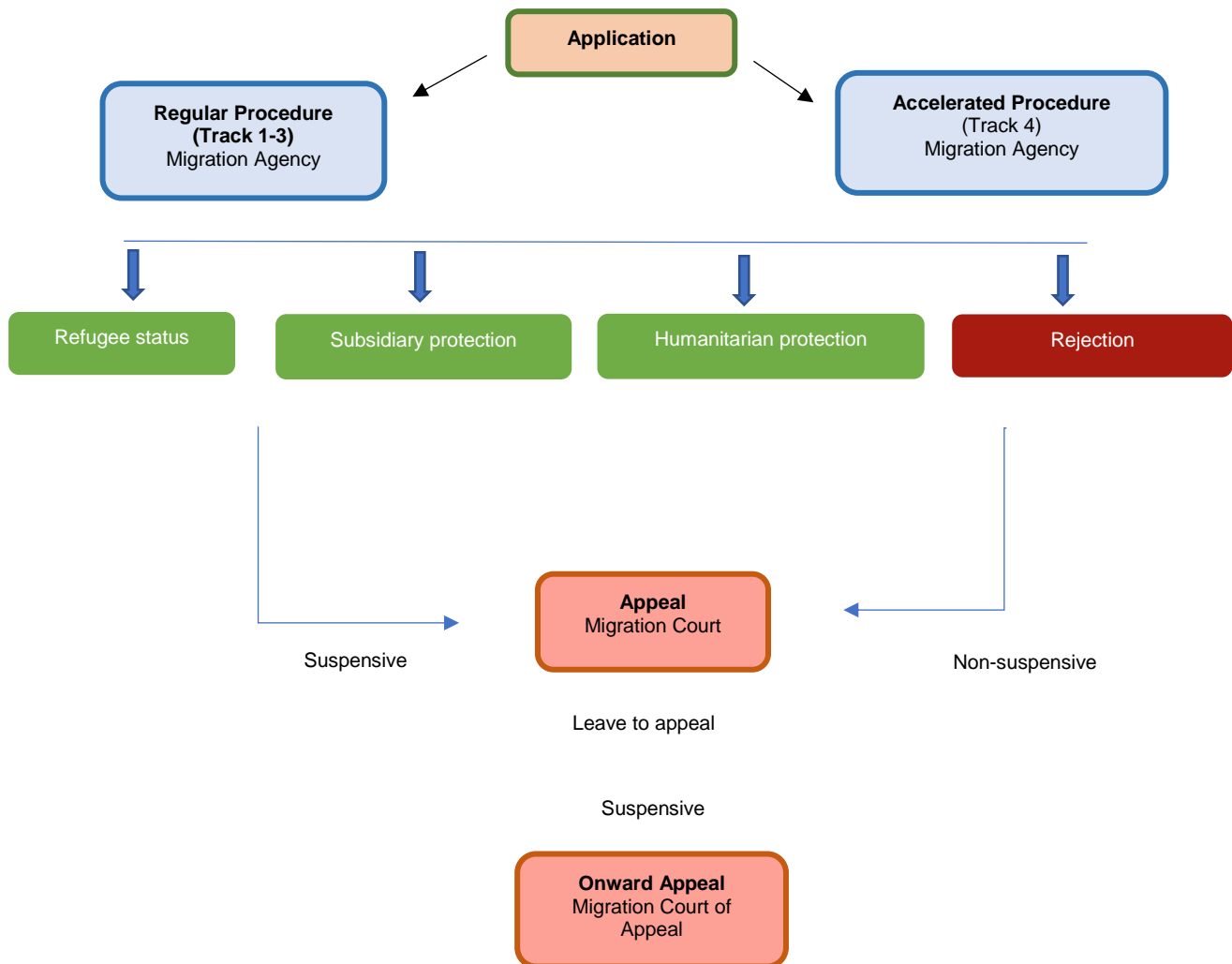
Content of international protection

- ❖ **Residence permits:** A Cross-party Committee of Inquiry presented its proposals for Sweden's future migration policy. The proposals include that temporary residence permits shall be the general rule for beneficiaries of international protection; while resettled refugees may be granted permanent permits. Residence permits should remain limited to three years for refugees and 13 months for subsidiary protection status holders, extendable by two year-periods. To qualify for permanent residence permits, beneficiaries of international protection would need to demonstrate civic education skills, a good knowledge of Swedish language, their ability to provide for themselves and, already as of the age of 15, so-called 'good conduct'.
- ❖ **Family reunification:** The above-mentioned Cross-party Committee of Inquiry's proposals for Sweden's future migration policy also included proposals on family reunification. The proposal essentially suggests to make use of most of the restrictions previously introduced through temporary legislation, including by limiting the right to family reunification to core family members only, as well as applying requirements on income and housing (i.e. the size and standards of housing) that need to be met when family members apply for family reunification more than three months after the beneficiary was granted a protection status. However, the right to family reunification remains accessible both to refugees and beneficiaries of subsidiary protection.

Asylum Procedure

A. General

1. Flow chart



The decision gains legal force on the date of decision or judgment. If the decision is not appealed to the Migration Court of Appeal, it gains legal force three weeks after that the applicant was notified of the last instance decision or judgment. A decision is statute-barred 4 years after the date of legal force.

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: ² | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ▪ Fast-track processing: ³ | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ Dublin procedure: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ Admissibility procedure: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ Border procedure: | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| ❖ Accelerated procedure: ⁴ | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ Other: | | |

Are any of the procedures that are foreseen in national legislation, not being applied in practice? If so, which one(s)?

☐ Yes ☒ No

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

4. Determining authority

Name in English	Number of staff at the end of 2020	Ministry responsible	Is there any political interference possible by the responsible Minister with the decision-making in individual cases by the determining authority?
Migration Agency	5,551	Ministry of Justice	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Source: Migration Agency, *Annual Report 2020*, Dnr: 1.3.2-2021-1600, 18.

² For applications likely to be well-founded or made by vulnerable applicants. See Article 31(7) recast Asylum Procedures Directive.

³ Accelerating the processing of specific caseloads as part of the regular procedure.

⁴ Labelled as "accelerated procedure" in national law. See Article 31(8) recast Asylum Procedures Directive.

Swedish administrative system

The administrative system in Sweden differs other European countries 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 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.

As a general rule, the Ministry of Justice and other Government Offices cannot intervene in individual cases concerning applicants for international protection. However, in cases concerning serious threats to national security, the Act concerning Special Controls in Respect of Aliens may be used (1991:572).⁵ According to Section 2, the latter Act becomes applicable upon request of the Swedish Security Service. An expulsion decision is, however, always issued by the Migration Agency at first instance. According to Section 2 (a) of the Act, the Migration Agency's decision can be appealed to the Government.

According to Section 3 of the Act, an appeal of an expulsion decision issued by the Migration Agency shall be handed over to the Migration Court of Appeal, who shall submit an opinion of the merits in the case, and thereafter hand the case over to the government for a final decision. In its submission, the Migration Court of Appeal should address whether there are impediments in accordance with Chapter 12 Section 1-2 of the Swedish Alien's Act [*non-refoulement*] against the enforcement of the expulsion decision. If the Migration Court of Appeal considers that there are such impediments, the Government cannot deviate from that assessment. Since 2012 and up until the end of 2020, the Act concerning Special Controls in Respect of Aliens has been used in 40 cases.⁶

Swedish Migration Agency

The Migration Agency is the central administrative authority in the area of asylum. It is responsible for examining applications for international protection and competent to take decisions at first instance. It further takes decisions on work permits, family reunification, adoption, studies, and citizenship and is also responsible for operating detention centres.

The Migration Agency is subordinate to the Government as a whole and reports to the Ministry of Justice, with which it cooperates at various levels. 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.⁷ This also applies to the Agency's policy on different topics. The Migration Agency coordinates and divides tasks between the divisions of Asylum, Managed Migration and Citizenship, thereby upholding due process and ensuring effective case management in line with Sweden's Alien and Citizenship Act. The Migration Agency is also responsible for aliens without residence permits, i.e. until they obtain a permit and have settled in a municipality. Legal provisions pertaining to the Migration Agency are found primarily in the 2005 Aliens Act and the 2019 Ordinance with Instructions for the Migration Agency.

The Migration Agency is headed by a Director General, who is appointed by the government. The Migration Agency's head office consists of the Senior Management, the Director-Generals staff and

⁵ Act concerning Special Controls in Respect of Aliens, available in Swedish at: <https://bit.ly/3bafx94>.

⁶ This includes: 1 case in 2012/2013; 2 cases in 2013/2014; 1 case in 2014/2015; 7 cases in 2015/2016; 4 cases in 2016/2017; 2 cases in 2017/2018; 11 cases in 2018/2019 and 12 cases in 2019/2020. These numbers include cases concerning requests for reassessments of previously issued expulsion decisions. See: Government, regeringens skrivelse 2020/2021:69, 2020 års redogörelse för tillämpningen av lagen om särskild utlänningskontroll. 17 December 2020, available in Swedish at: <https://bit.ly/38qBbHV>.

⁷ Instrument of Government, Ch. 12, Section 2, available in Swedish at: <https://bit.ly/3ccbSJ7>.

departments supporting the operational activities. This includes the Digitalisation and Development Department, the Planning Department, the Legal Affairs Department, the Communications Department, the Human Resources Department, and the Operation Support Department.⁸ The head office is located in **Norrköping**.

Stand-alone functions are the internal audit, the supervisory unit and the agency's fund management, which all report directly to the director-general. There is also a dedicated unit to Dublin procedures and a separate country of origin unit (**LIFOS**). LIFOS produces reports and conducts missions to certain countries in order to assess and analyse the political situation in a particular country or region. The Migration agency has access to a variety of COI reports issued by other countries and organisations through its database, LIFOS. It is the caseworker's duty to regularly update themselves on relevant country of origin information. Caseworkers are generally required to hold a degree in law and/or political science to be working on asylum-related matters. Regarding other training of staff, some specialised trainings are offered for caseworkers who interview children, based on the EASO Training Curriculum (ETC) module Interviewing Children. Case officers that have completed this training may process claims by unaccompanied children. Similar trainings have been carried out and instructions issued in relation to female refugee claimants and claimants with LGBTQI grounds – the Interviewing vulnerable persons and SOGI ETC training module.

Quality control and assurance within the Migration Agency

The Migration Agency works with quality control and assurance on a regular basis and in different ways. The overall goal of quality assurance is to ensure that all decisions that have been taken are formally and materially correct, as well as to ensure a uniform application of the law and case management based on current legislation and the applicant's individual circumstances. The Migration Agency has a number of mandatory indicators within the framework of quality follow-ups that should always be considered within a quality framework assessment, especially processing times. These quality indicators cover the following aspects:⁹

1. Has the investigation been conducted according to the nature of the case? Was there too little or too much investigation?
2. If an investigation has not been carried out according to the nature of the case, explain what has not been investigated according to the nature of the case?
3. Is the language used simple and understandable?
4. Is the outcome of the case correct?
5. Is the classification of the decision correct? (if appropriate)
6. Is the length of the permit granted correct? (if appropriate)

The outcome of quality control exercises in Sweden is only made public upon request.

⁸ The Migration Agency, Our organisation, <http://bit.ly/2P6GRQ7>.

⁹ The Migration Agency, Kvalitetsuppföljningar av rättslig kvalitet i Migrationsverkets processer, RC A - 04/2019.

MIGRATIONSVERKET'S REGIONINDELNING

2021-01-01

TECKENFÖRKLARING

- Myndighetens huvudkontor och huvudort för den nationella operativa avdelningen.
- Nationellt servicecenter
- Regionens huvudort
- Ort
- Förvar

LÄNSFÖRDELNING I REGIONERNA

Region Nord:

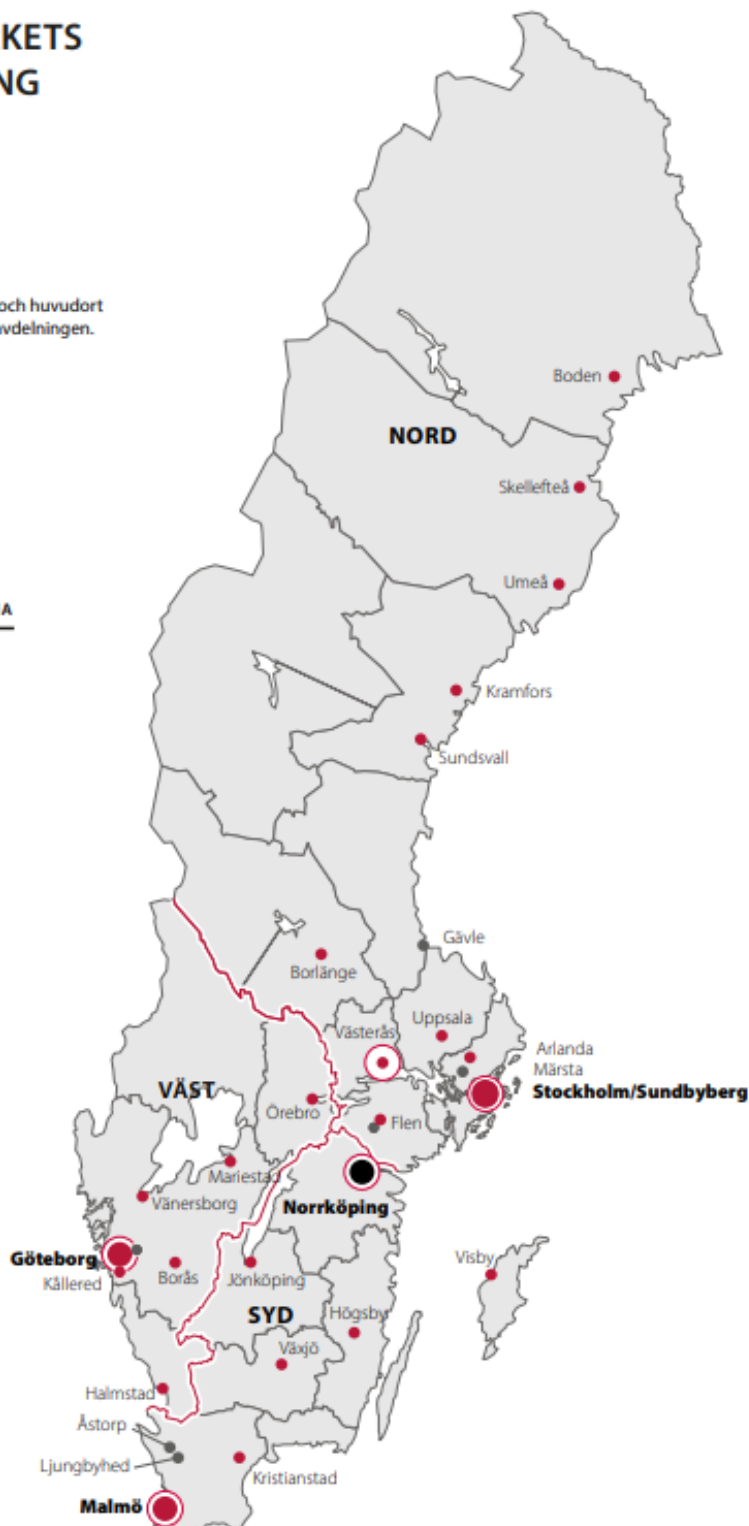
Norrbottens län
Västerbottens län
Jämtlands län
Västernorrlands län
Dalarnas län
Gävleborgs län
Uppsala län
Västmanlands län
Stockholms län
Södermanlands län
Gotlands län

Region Väst:

Värmlands län
Örebro län
Västra Götalands län
Hallands län

Region Syd:

Östergötlands län
Jönköpings län
Kalmar län
Kronobergs län
Blekinge län
Skåne län



The Migration Agency had 5,551 employees by the end of 2020. Out of the total number of employees in 2020, 311 were working as case officers and 176 as decision makers in asylum cases.¹¹In 2019, the

¹⁰ Geographical overview of Migration Agency's regional divisions, available in Swedish at Migration Agency website at <https://bit.ly/3syur23>.

¹¹ Information from the Migration Agency in February 2020.

average age was 40 for women and 42 for men. 33 % of the work force had been employed less than five years. The average period of employment was 8.1 years. 91% were full-time staff.¹²

In 2020, the Migration Court in **Malmö** changed the decision of the Migration Agency in 11.3% of the asylum cases, followed by the Migration Court of **Gothenburg** (11%), the Migration Court of **Luleå** (9.7%) and the Migration Court of **Stockholm** (4.6%).¹³ In total, 7% of the decisions were changed by the Migration Courts and a further 5% were remitted, which marks a decrease compared to 2019 when the Migration Courts changed the decision of the Migration Agency in 17 % of cases and a further 12% of cases were remitted.

The Migration Agency was criticised for underreporting suspects of war crimes and has increased its reporting of suspected war crimes to the police from 52 cases in 2017 to 135 in 2018.¹⁴ In 2019, the Migration Agency reported 123 suspected war crimes to the police.¹⁵ In 2020, the Agency reported 86 suspected war crimes.¹⁶

5. Short overview of the asylum procedure

During the processing and examination of applications for international protection, 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 are possible:

- 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 in cooperation with the respective municipality;
- Where the application is, however, unsuccessful or a residence permit was refused, the asylum seeker shall return 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 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*). The Supreme (Civil and Criminal) Court does not deal specifically with asylum claims but hands down decisions in appealed cases on whether it is safe to return persons condemned with a crime to their home country.

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. The Migration Agency has implemented a new way of organising the flow of cases during 2016, which was updated in 2018, in response to a government order to shorten processing times.¹⁷ The Migration Agency states that the protection process

¹² Migration Agency, *Annual Report 2019*, 19 February 2020, available in Swedish at: <http://bit.ly/382Zbh6>, 133.

¹³ Swedish Refugee Law Center, *Rapport – trender i vår ärendehantering och de viktigaste förändringarna på asylrättens område under år 2020*, 21.

¹⁴ Migration Agency, 'Reports of suspected war crimes are increasing', 28 March 2019, available at: <https://bit.ly/2vjtnJY>.

¹⁵ Information from The Migration Agency in January 2019.

¹⁶ Migration Agency, *Annual report 2020*, 89, Dnr: 1.3.2-2021-1600.

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

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.

Since 2016, cases are screened and sorted in different tracks based on their specific profile during the initial process.¹⁸ Manifestly unfounded applications, Dublin cases and cases with a high percentage of rejection go directly to the units that can quickly handle these cases. Other cases are forwarded to the Distribution Unit. 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 Unit. 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** Presumed positive outcome
Track 1 categorises cases where the presumption is that the case will be successful. The aim is to create preconditions for rapid settlement for persons who are likely to stay in Sweden.
- Track 2** Presumed negative outcome
Track 2 categorises cases where there is no presumption of approval. The aim of track 2 is to deal with cases where the outcome of the case is unclear.
- Track 3** Delayed case processing
In track 3 cases are categorised where the handling time will extend more than 6 months because of the complexities of the case. The aim of category 3 is to deal with cases with delayed processing.
- Track 4A** **Accelerated Procedure:** In track 4A cases are categorised based on a presumption that the application will be refused and expulsion take place with immediate effect or where the applicant is an EU citizen. The purpose of Track 4A is for persons with no asylum grounds to stay as short time as possible in the reception system.
- Track 4B** In track 4B cases are categorised based on an applicant coming from a country with a high rejection rate where a rapid assessment procedure is possible and return feasible. The purpose of track 4B is for persons in this category to remain as short a time as possible in the reception system.
- Track 5A** Cases to be dealt with under the [Dublin Regulation](#).
- Track 5B** **Admissibility Procedure:** Track 5B concerns cases which can be refused because the applicant has been granted protection in another EU Member State or in Norway, Switzerland, Iceland or Liechtenstein.
- Track 5C** Cases where an applicant can be refused because protection status has been granted in another country which is neither an EU Member State nor Norway, Switzerland, Iceland or Liechtenstein. This track is also used for cases where the applicant can be sent to a safe third country.

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

¹⁸ Migration Agency, Standard för Spårindelning i skyddsprocessen, I-24a/2018, 1 October 2018.

outcome in cases that have already been fully processed and where there is a legally enforceable removal order.

Free legal aid at first instance is granted in all asylum cases in the regular procedure. The applicant can request a specific lawyer on the list administered by the Migration Agency and this choice must be respected even if the lawyer is located at a distance or is not available at the preferred time of the Migration Agency for an interview.¹⁹ However, in most cases, it is the Migration Agency that designates 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 cases where the Migration Agency has denied an application for international protection with reference to the reliability of the provided information or the applicant's credibility, there is very little room for the Migration Court to deny the applicant an oral hearing, if it's requested.²⁰

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 rulings in *M.S.S. v. Belgium and Greece* and *Tarakhel v. Switzerland* apply.²¹ 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.²² 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 been appointed in Dublin cases.

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 within a week.

The appeal before the Migration Court has suspensive effect, except for appeals lodged against decisions rejecting a "manifestly unfounded" application in the accelerated procedure under "Track 4". In such cases, suspensive effect must be requested by the appellant. The Migration Court sits with only one judge in simpler cases but for other cases the judge is joined by three lay judges selected from among their members by the parliamentary parties sitting in the county council of the region where the court is located. They have no special legal training and represent the general public. They have varying backgrounds

¹⁹ Migration Court of Appeal, Decision MIG 2017:21, UM8311-17, 14 November 2017, available in Swedish at: <https://bit.ly/3b2pGXm>.

Migration Court of Appeal, Decision MIG 2009:30, UM7867-08, 9 November 2009, available in Swedish at: <https://bit.ly/33Z7aK1> and Migration Court of Appeal, Decision MIG 2017:9, UM 7143-16, 12 April 2017, available in Swedish at: <https://bit.ly/354Hddk>.

²¹ ECtHR, *M.S.S. v. Belgium and Greece*, Application No 30696/09, Judgment of 21 January 2011; ECtHR, *Tarakhel v. Switzerland*, Application No 29217/12, Judgment of 4 November 2014.

²² Migration Court of Appeal, UM 5998-14; UM 3055-14, 19 December 2014.

from many different sectors. They sit for four years. If there is a tied vote it is the opinion of the judge that decides the outcome.

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 applicants have 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, when there has been an oral hearing in Court, or from 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."²³ 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 aid is provided.

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. However, since only the Migration Court in **Stockholm** deals with Dublin appeals, its position on returns to certain EU countries where there are grounds to believe that due process cannot be ensured can entail a temporary halt in returns until a decision has been made by the Migration Court of Appeal on the matter.

The Migration Court of Appeal can exceptionally hold an oral hearing but in most cases, there is only a written procedure. There are no lay judges at this level.

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 exceptional circumstances regarding threats to society, the time limit can be even shorter.

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.

On 14 February 2020, the Migration Court of Appeal ruled in case MIG 2020:3 that a person could not be granted refugee status if the person is not present in Sweden. The case concerned an asylum seeker whose asylum application was rejected by the Migration Agency. The asylum seeker appealed the decision but then left Sweden before the case was decided.

²³ Ch. 16, Section 12 Aliens Act.

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
2. Is there a border monitoring system in place? ☐ Yes ☒ No
 - ❖ If so, who is responsible for border monitoring? ☐ National authorities ☐ NGOs ☐ Other
 - ❖ How often is border monitoring carried out? ☐ Frequently ☐ Rarely ☐ Never

EU rules foresee that countries in the passport-free Schengen zone can only establish temporary border controls under exceptional circumstances. In December 2015, Sweden introduced internal border controls. The [2018 AIDA report](#) provides a historical background and legal aspects on the border controls.

Despite the fact that the reintroduction of border control at the internal borders must be applied as a last resort measure, in exceptional situations, and must respect the principle of proportionality, Sweden has regularly re-introduced border controls at its internal borders in recent years. The current temporary border control is valid up until 11 May 2021.²⁴ The decision to re-introduce border controls is based on the government's assessment that there is still a threat to public order and internal security in Sweden, including an important terrorist threat, and that there are shortcomings in the control of the external borders around Schengen. Checks are thus set up accordingly to address the threat.²⁵

While Sweden has not introduced any measures directly affecting the right to seek asylum, the access to the asylum procedure was rendered more difficult in 2020 as a result of COVID-19, inter alia due to travel restrictions. On 19 March 2020, the Swedish government introduced a temporary ban on non-necessary travels to Sweden from countries other than **EU countries, Great Britain, Norway, Iceland, Liechtenstein and Switzerland**.²⁶

In its directives to the Police Authority for 2020, the government states that it shall prioritise and take the necessary measures to be able to carry out a fully functioning regular border control at external borders during all the months of the year. In addition, the authority shall continue to develop its preparedness and ability to conduct an appropriate border control at internal borders if necessary.²⁷

²⁴ European Commission, *Temporary Reintroduction of Border Control*, available at: <https://bit.ly/36UAZQ3>.

²⁵ Government, Department of Justice, *Beslut om återinförande av gränskontroll vid inre gräns*", available in Swedish at: <https://bit.ly/3q1T85U>.

²⁶ Government, Extension of temporary entry ban to the EU via Sweden due to COVID-19, available at: <https://bit.ly/3aceDvp>.

²⁷ Government, Department of Justice, 'Regleringsbrev för budgetåret 2020 avseende Polismyndigheten', available in Swedish at: <https://bit.ly/2TB8h0V>.

2. Registration of the asylum application

Indicators: Registration

1. Are specific time limits laid down in law for making an application? ☐ Yes ☒ No
❖ If so, what is the time limit for lodging an application?
2. Are specific time limits laid down in law for lodging an application? ☐ Yes ☒ No
❖ If so, what is the time limit for lodging an application?
3. Are registration and lodging distinct stages in the law or in practice? ☐ Yes ☒ No
4. Is the authority with which the application is lodged also the authority responsible for its examination? ☒ Yes ☐ No
5. Can an application be lodged at embassies, consulates or other external representations? ☐ Yes ☒ No

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 (**Sundbyberg** and **Märsta**), **Gävle**, **Boden**, **Norrköping**, **Gothenburg** and **Malmö**. If a person seeks asylum at an airport or port, they are referred to the Migration Agency.

In 2020, a total of 12,991 applications for international protection were lodged in Sweden. This marks a decrease of 41% compared to 2019, where 21,958 applications were lodged. This is mainly due to the impact of COVID-19, as travel restrictions made it difficult to reach Sweden. Nevertheless, the possibility to apply for asylum was maintained throughout the year despite the COVID-19 situation.

In 2020, 12,991 applications were lodged in Sweden, where the majority were lodged in **Stockholm** (6,269), in **Gothenburg** (2,540) and in **Malmö** (2,181).²⁸

Applications lodged by location: 2020	
Locations	Number of applicants
Arlanda	673
Boden	181
Borås	25
Flen	25
Gävle	1
Gothenburg	2,540
Halmstad	21
Jönköping	22
Kramfors	25
Kristianstad	25
Malmö	2,181
Mariestad	19
Märsta	11
Norrköping	38
Skellefteå	25
Stockholm	6,269
Sundsvall	135
Umeå	41

²⁸ Swedish Migration Agency, *Applications for asylum received 2020*, available at: <https://bit.ly/2NUZ8PU>.

Uppsala	101
Vänersborg	27
Västerås	42
Växjö	26
Åstorp	7
Örebro	231
Other	300
Total	12,991

Source: Swedish Migration Agency, *Applications for asylum received 2020*, available at: <https://bit.ly/2NUZ8PU>.

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 problems reported for asylum seekers regarding the registration of their claim in practice in 2020, i.e. registration remained accessible during COVID-19.

C. Procedures

Since 2016, the Migration Agency implements a “tracks” policy whereby asylum seekers are channelled to a specific procedure depending on the circumstances of their case. Beyond the regular asylum procedure (“Tracks 1 and 2”), the policy foresees specific tracks for manifestly unfounded cases (track 4A) or cases coming from low-recognition-rate countries (“Track 4B”), Dublin cases (“Track 5A”) and inadmissibility cases (“Track 5B” and “Track 5C”).

Applications for international protection by track: 2020	
Track 1 – Presumed positive outcome	841
Track 2 – Presumed negative outcome	6,662
Track 3 – Delayed case processing	40
Track 4A – Accelerated procedure	105
Track 4B – Safe country origin	2,810
Track 5A – Dublin procedure	1,155
Track 5B and 5C – Admissibility procedure	292 (Track 5B) and 6 (Track 5C)
“Unknown”	1,102
Total	12,991

Source: Swedish Migration Agency – Statistical Unit.

While Sweden has transposed the recast Asylum Procedures Directive, it should be noted that these tracks do not fully follow the structure of the Directive in terms of regular procedure, prioritised procedure and accelerated procedure. The different sections below refer to the applicable track in each case.

1. Regular procedure (“Track 1 and 2”)

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: 6 months
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 2020: 7,155

The average length of the asylum procedure (i.e. for all tracks) had significantly decreased from 507 days in 2018 to 288 days 2019, but increased again to a total of 302 days in 2020:

Average length of the asylum procedure: 2018-2020		
2018	2019	2020
507 days - 16.9 months	288 days – 9.6 months	302 – 10.1 months

Source: Swedish Migration Agency, *Monthly Statistical Report December 2020*, <https://bit.ly/3pjoBQ4>, 3.

The increase of the average length of the procedure in 2020 is due *inter alia* to the impact of COVID-19. As mentioned above, the Migration Agency suspended most of its interviews for a two-week period in March 2020.²⁹ The Migration Agency increased its capacity to conduct interviews remotely via video and the interview rooms were equipped with protective equipment during the summer.³⁰ A total of 44 out of 108 asylum investigations were conducted by video by the Migration Agency during 2020.³¹

The Migration Agency decided on 50,012 applications for international protection in 2020. This included 20,980 decisions on new applications and 29,032 prolongation decisions where renewal of a temporary protection permit was requested.³² The backlog of pending cases has been reduced by half from 14,890 at the end of 2019 to 7,155 at the end of 2020.

1.2. Prioritised examination and fast-track processing (“Track 1”)

As outlined in the [Overview of the Procedure](#), the Migration Agency has introduced a tracks policy in 2016 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.

In 2020, 841 applications were assigned to Track 1. A total of 1,497 decisions were delivered and 303 cases were open at the end of the year.³³

²⁹ Swedish Migration Agency. *Så påverkas Migrationsverkets verksamhet av coronaviruset*, available in Swedish at: <https://bit.ly/2P6DM2G>.

³⁰ Migration Agency, *Annual Report 2020*, 38.

³¹ Information provided by the Swedish Migration Agency.

³² Migration Agency, *Annual Report 2020*, 39.

³³ Information provided by the Swedish Migration Agency.

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
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
4. Can the asylum seeker request the interviewer and the interpreter to be of a specific gender?
❖ If so, is this applied in practice, for interviews? ☒ Yes ☐ No

Swedish legislation and regulations allow for a personal interview in all asylum cases.³⁴ All interviews, whether in 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. A decision on the merits is taken by two persons: the case officer and a decision maker. The difference between the two is that the case officer is responsible for the management of the case, which include administrative tasks, conducting the interview and writing a proposed decision. The decision maker has a regular contact with the case officer, but will, in the end, have the final word regarding the assessment of the application and the decision.

Credibility assessments is of great importance in the asylum procedure. The Swedish Refugee Law Center has carried out a study in 2019 that examined which indicators are used by the Migration Agency in credibility assessments for decisions where the application has been rejected. The study covered 90 decisions from four different regions in Sweden and was based on a handbook published by the Department of Psychology at Gothenburg University. This handbook looks at how to assess credibility in asylum cases, i.e. by identifying suitable indicators to that end.³⁵

The level of detail and consistency were found to be the two most common indicators and were categorised as suitable credibility indicators in the handbook. However, other less suitable indicators seemed to be also common, such as the reasonableness of the story. The study further identified three indicators that are not mentioned in the handbook but are quite frequently used by the Migration Agency. These three are speculations, hearsay and lack of subjective fear. These indicators have in common that they do not have any scientific support for them being suitable to use in credibility assessments.³⁶

The possibility to conduct individual interviews were limited during the spring in 2020 due to the COVID-19 situation, i.e. when the Migration Agency suspended most of its their interviews for a two week period in March 2020. The Migration Agency focused primarily on applications for extensions of residence permits for persons already granted international protection as they do not require interviews to the same extent as first-time applicants. The Migration Agency also increased the use of interviews via videoconference and, during the summer, introduced protective equipment in their interview rooms. After having equipped the interview rooms accordingly, the Migration Agency could return to normal capacity. During the autumn, the Migration Agency prioritised new applications and reallocated resources to

³⁴ Chapter 13 Section 1 Aliens Act

³⁵ Gothenburg University, Värdering av muntliga utsagor, ett vetenskapligt baserat beslutsstöd för migrationsärenden, 2017, available in Swedish at: <https://bit.ly/37iJFzV>

³⁶ Swedish Refugee Law Center, *Tillförlitliga kriterier? En granskning av Migrationsverkets tillförlitlighetsbedömningar av asylberättelser*, 2019, available in Swedish at: <https://bit.ly/3dtvDMn>.

conduct interviews which had been cancelled during the spring and summer.³⁷ In 2020, 4,005 out of 8,837 asylum interviews were conducted by video by the Migration Agency.³⁸ Up until March 2021, video interviews continued to be extensively used by the SMA as approximately 70-80% of them are conducted by video. Where interviews are conducted physically, the SMA uses protective equipment such as glass and bigger rooms with more space in line with COVID-19 rules.

Overall, it seems that remote interview techniques have not raised particular issues. In the rare cases where issues with videoconferencing were reported, it related to the fact that some difficulties arise if the interpreter is not in the same room as the applicant or if the interpreter is not visible by not using the video-function, or that it is difficult to appropriately communicate feelings such as fear of being subject to persecution and that it might be difficult to accurately assess credibility through remote interview techniques. Applicants have not expressed particular complaints regarding remote interviews.³⁹ The Migration Agency confirmed that conducting interviews by video is not a new procedure, that it has been conducted for several years and that it works well.⁴⁰ The Migration Agency also stated that online interviews allow for respect of legal safeguards equally as physical meetings do.⁴¹ Several NGOs such as the Swedish Refugee Law Center, Save the Children, Amnesty Sweden and Stockholm City Mission reported, however that individual applications may be negatively affected as applicants could not meet their public counsel due to COVID-19 restrictions.⁴²

1.3.1. Interpretation

The applicant may request an interpreter and interviewer of a certain gender.⁴³ The Migration Agency shall accommodate these requests if possible.⁴⁴ If the interpreter is lacking the necessary skills and this becomes apparent during the interview the case worker can close 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 and/or legal representative 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 from Islam to Christianity, for instance, there is great sensitivity on this issue from the position of the applicant, who in rare cases has been interviewed by a case officer wearing a hijab. There is also a lack of knowledge of the relevant vocabulary amongst case officers and interpreters which has been noted by the authorities. Occasionally, interpreters request to be relieved of their task because the case concerns a convert from Islam. In the area of LGBTQI applications, the Migration Agency has arranged seminars for interpreters to standardise terminology but the need for terminological support has not yet been addressed regarding religion-based claims.

The government decided on 14 March 2019 to expand their annual directives to the Migration Agency by requesting them to assure legal quality and uniform application in asylum cases where religious conviction is a basis for the claim.⁴⁵ In the region which is in charge of the majority of cases on religious grounds, the Migration Agency has provided specific trainings on the topic. In 2020, the Agency also analysed cases concerning Afghans, which is a category of cases where claims based on religion occur, that had been changed in the courts in 2019. The Agency found that the proportion of cases changed were not

³⁷ Swedish Migration Agency, *Annual report of 2020*, 38, Dnr: 1.3.2-2021-1600

³⁸ Information provided by the Swedish Migration Agency.

³⁹ Information provided by lawyers from the Swedish Refugee Law Center on March 2021.

⁴⁰ Sveriges Radio, *Kritik mot asylutredningar på distans*, available in Swedish at: <http://bit.ly/2ZVBipR>.

⁴¹ FRA. Migration: Key Fundamental Rights Concerns, November 2020, available at: <https://bit.ly/2YThMtx>, 23.

⁴² Ibid.

⁴³ Ch. 8, Section 9 c Aliens Ordinance Act.

⁴⁴ Ibid. Note that Article 15.3(c) recast Asylum Procedures Directive introduces that obligation "wherever possible".

⁴⁵ Migrationsverkets kommentar till rapporten om konvertitärenden, <https://bit.ly/2ufK3Pt>.

remarkably high, namely 10% compared to 8% in other cases. Out of the cases that were changed by the courts, the courts had made a different assessment of whether the person had a genuine religious belief or atheist conviction in 17% of the cases. The Migration Agency mentions that conversion is a process that takes place over time and that persons could therefore have a stronger religious belief during the court process than during the first instance procedure. However, the Migration Agency also carried out a mapping based on automated searches in their case handling system on cases concerning conversion and atheism. It showed that the term conversion was present in about 10% of the cases. The mapping further demonstrated regional differences in the level of cases granted, varying between 18% and 33%. There was also a regional difference in the courts, varying between 2% and 15% of the appeals being successful. The Migration Agency acknowledged that, based on this mapping, there seems to be a lack of uniformity on cases concerning conversion of religion.⁴⁶

Only translators authorised by the Legal, Financial and Administrative Services Agency (*Kammarkollegiet*) have the right to designate 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 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 in certain languages. There is a general code of conduct for interpreters issued by *Kammarkollegiet* in **Stockholm** and last updated in December 2016.⁴⁷ All companies stress that they follow the basic principles and respect the rules on confidentiality.

In 2018, the Migration Agency issued a guidance note to its staff regarding levels of competence necessary for different interpretation tasks. The government has also commissioned a wider report on interpretation services which has put forward a number of proposals.⁴⁸ A number of strategic goals for the society's provision of interpreters can be formulated as medium-term goals of around five years:

- The State funds fewer educational pathways for interpreters but increases the total capacity. Volume and orientation are coordinated in relation to state authorisation of interpreters, with a basic requirement for training and workplace learning.
- The State keeps a register of authorised and trained interpreters. This forms the basis of future public sector interpreting services.
- A new interpreting services act is introduced, and the use of children as interpreters is prohibited and replaced with the use of professional interpreters. Regulatory frameworks, quality assurance and supervision of interpreters and intermediary bodies are developed.
- The public sector plans for the long term, collaborates, coordinates and uses existing interpreting resources more flexibly and effectively. An increasing share of resources is used to finance core interpreting activities, i.e. interpreting services.
- Quality-assured interpreters are offered public assignments through the State's coordinated commissioning. Authority requirements are matched against the quality of services delivered.

⁴⁶ Migration Agency, *Annual Report 2019*, 38-39.

⁴⁷ Kammarkollegiet, *Kammarkollegiets tolkföreskrifter*, KAMFS 2016:4, 13 December 2016, available in Swedish at: <https://bit.ly/3rN5642>.

⁴⁸ Government, *Att förstå och bli förstådd – ett reformerat regelverk för tolkar i talade språk*, SOU 2018:83, December 2018, available in Swedish at: <https://bit.ly/2GBTzym>, 36.

- The State and public sector build up their own interpreting resources where appropriate, or agree on guaranteed services. Cost increases for the public sector are held back but quality and societal benefits increase.
- The interpreting profession is valued and professionalised, which in the long term also leads to more traditional partnerships, a better work environment, higher employment rates and more labour market stability for interpreters.

However, in asylum interviews, when applicants recount the core events in their applications, interpreters occasionally fail to give a detailed 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 the 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. With the increased use of video conferencing in 2020 as a consequence of COVID-19, the risks in this regard might be even greater when the applicant and the interpreter are not in the same room.

1.3.2. Recording and transcript

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. 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, and there has also been situations where interpreters have refused the legal counsel and/or applicant to record the interview.

Almost *verbatim* notes are taken of the interpreter's translation and the transcript is made available to the applicant through the legal counsel to comment on and add to before a decision is made in the case.⁴⁹ A specific date is given by the Migration Agency, usually one to two weeks for when these comments and additional information have to be submitted.

Video interviews were being conducted even prior to COVID-19, but was then typically applied only when the applicant was residing at long distances from the Migration Agency's designated interview office. However, as a result of COVID-19, video interviews have increased in 2020, in particular before the interview rooms were adapted to COVID-19 with protecting equipment during the summer.

⁴⁹ 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.

1.4. Appeal

Indicators: Regular Procedure: Appeal

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

<ul style="list-style-type: none">❖ If yes, is it❖ If yes, is it suspensive	<table border="0"><tr><td><input checked="" type="checkbox"/> Yes</td><td><input type="checkbox"/> No</td></tr><tr><td><input checked="" type="checkbox"/> Judicial</td><td><input type="checkbox"/> Administrative</td></tr><tr><td><input type="checkbox"/> Yes</td><td><input checked="" type="checkbox"/> Some grounds <input type="checkbox"/> No</td></tr></table>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/> Judicial	<input type="checkbox"/> Administrative	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Some grounds <input type="checkbox"/> No
<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No						
<input checked="" type="checkbox"/> Judicial	<input type="checkbox"/> Administrative						
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Some grounds <input type="checkbox"/> No						
2. Average processing time for the first appeal body to make a decision in 2020: 8.2 months⁵⁰

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 (*Migrationsöverdomstolen*).

1.4.1. Appeal before the Migration Court

A refusal decision by the Migration Agency can be appealed before the Migration Court and has suspensive effect under the regular procedure.⁵¹ In manifestly unfounded cases, the appeal has no automatic suspensive effect but this can be requested by the applicant and exists until the court decides thereon.⁵²

Appeals are made to the four Migration Courts in **Stockholm, Luleå, Malmö and Gothenburg**. All Dublin appeals are dealt with by the Migration Court in Stockholm. 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.⁵³ The written decision is communicated orally 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 regarding the decision and to submit an appeal against the refusal decision if the client so requests. This duty is not laid down in law and there are no legal sanctions against the legal representative if the deadline is missed. The Swedish Bar Association can issue disciplinary sanctions against a legal representative if he or she is a member of the bar. 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 applicants 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 content needs 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 obligation to review its decision based on any new evidence presented. In 2020, the Migration Agency changed its initial decision in only one case, out of the 15,299 decisions issued that year.⁵⁴ By way of comparison, in 2019, the Migration Agency had changed its initial decision in 4 cases (out of 14,760 decided cases). This demonstrates that the SMA almost never changes its initial position. When 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. In 2020, a total of 15,056 cases were forwarded to the Migration Courts within 8 days,⁵⁵ thus marking a slight increase compared to 14,345 decisions forwarded in 2019 within 10 days to the Courts.

⁵⁰ Information provided by the National Courts Authority.

⁵¹ Ch. 12, Section 10 Aliens Act.

⁵² Ch. 12, Section 8a Aliens Act.

⁵³ Ch. 23 Section 2 Administrative Law (Förvaltningslagen).

⁵⁴ Swedish Migration Agency, *Monthly Statistical Report December 2020*, DNR: 1.1.1.2-2020-143, p. 18.

⁵⁵ Swedish Migration Agency, *Monthly Statistical Report December 2020*, DNR: 1.1.1.2-2020-143, p.18.

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. In 2020, the prevalence of oral hearings varied significantly across the migration courts. The most cases held with oral hearings were conducted in **Malmö** (37.02%), followed by **Luleå** (25.63%), **Göteborg** (16.29% and lastly **Stockholm** (14.16%).⁵⁶

Oral hearings held by the Migration Courts: 2020	
Court	Total hearings
Malmö	712
Göteborg	655
Luleå	192
Stockholm	758
Total	2,317

In 2020, 2,317 oral hearings were held in Migration Courts. This is a significant decrease compared to 5,194 hearings in 2019, most likely as result of the COVID-19 situation. An oral hearing may be open to the public initially but, before the proceedings start, the judge enquires about the applicant's wishes regarding confidentiality and decides 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.

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 access to 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 is abandoned.

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, and a date is set for the completion of the submission and any arguments that would have been presented in a court appearance can be submitted in writing.

1.4.2. Onward appeal before the Migration Court of Appeal

"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."⁵⁷

⁵⁶ Statistics provided by the National Courts Authority.

⁵⁷ Ch. 16, Section 12 Aliens Act.

In the 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”.⁵⁸ 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 or the Migration Court.

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.⁵⁹ 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.⁶⁰ If leave is refused, the expulsion order is legally enforceable.

In 2020, a total of 8,358 appeals were made to the Migration Court of Appeal in asylum cases and the latter decided upon 8 560 cases:

Appeals before the Migration Court of Appeal		
	2019	2020
Total number of appeals lodged	10,529	8,358
Total number of decisions	10,704	8,560
<i>Leave to appeal rejected</i>	10,319	8,336
<i>Leave to appeal granted</i>	54	49
<i>Appeals accepted</i>	4	6
<i>Appeals rejected</i>	27	22
<i>Appeals referred back to lower instances</i>	23	21

Source: The total number of appeals and decisions in asylum cases (*målkategori Avlägsnandemål asyl*), is provided by the National Courts Authority. Information concerning leave to appeal, appeals accepted, rejected and referred back is from the Migration Agency’s Monthly statistical report for December 2020, 19

The discrepancies in the above table between the total number of appeals lodged and the number of decisions is due to the fact that certain decisions were issued on appeals of the previous year. 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,

⁵⁸ Section 34a(2) Administrative Court Procedure Act (1971:291).

⁵⁹ Ch. 16, Section 10 Aliens Act.

⁶⁰ Ch. 16, Section 10 Aliens Act.

but the Government is legally responsible for the final decision.⁶¹ 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.⁶²

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.⁶³ In cases concerning appeal of the Migration Agency's decision regarding declaration of status and a decision not to grant a re-examination of a subsequent application, a public legal counsel shall be appointed if the person requests it, if he or she is in Sweden and it is not obvious that the appeal does not have a reasonable prospect of success.⁶⁴

The legal representative is assigned and designated by the Migration Agency or the respective court, where applicable the asylum seeker can ask for a specific person to be designated, a request which is normally granted. 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 but this is not an absolute criterion if the applicant has requested a specific lawyer. According to a ruling of the Migration Court of Appeal, the choice of lawyer by the applicant must be respected even if the lawyer is located at a distance or is not available at the preferred time of the Migration Agency for an interview.⁶⁵

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. 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 must be carefully motivated based on the exceptional nature of the case. Interpretation costs are reimbursed separately, along with other necessary expenses. Lawyers do not get paid for investigating country of origin information.

Other areas of legal practice are often better remunerated than asylum cases. Currently, the fees for asylum cases are approximately €141.17 an hour (1,425 SEK, not including VAT).⁶⁶ At the Court level,

⁶¹ Ch. 2a, Special Control of Aliens Act (Lagen om särskild utlänningskontroll) 1991:572.

⁶² Ch. 10, Special Control of Aliens Act.

⁶³ Chapter 18, Section 1 Aliens Act,

⁶⁴ Chapter 18, Section 1a Aliens Act,

⁶⁵ Migration Court of Appeal, Decision MIG 2017:21, UM8311-17, 14 November 2017, available in Swedish at: <https://bit.ly/3dg0Ky8>.

⁶⁶ Standard hourly fee for 2021 according to the Legal Aid Act, <http://bit.ly/3rKNoy5>.

the legal costs are higher if there is an oral hearing compared to a mere written procedure but the hourly fee remains the same.

There are no special requirements for lawyers with regard to their knowledge of asylum and migration law. The Parliamentary Ombudsman (JO) has stated in a decision that the Migration Agency is responsible for ensuring that the legal counsel is sufficiently competent for the task in hand, in practice, it can be argued that it is sufficient that they have a law degree in order for them to be appointed by the Migration Agency or the courts. The JO has also declared that the Migration Agency should have a system where it monitors and documents the skills and/or deficiencies of legal counsel. The previous system – the keeping of a “black list” – was deemed not to meet legal standards.⁶⁷ Due to JO criticism, the Migration Agency issued an internal instruction in 2017 on qualifications needed in order for the Agency to appoint a person as legal counsel.⁶⁸

During 2018 investigative journalists at Swedish Radio exposed the appointment of unqualified legal counsel:

“In two notable reports, the Swedish Radio’s Kaliber programme has examined public counsel in the asylum process. In the latest review, it emerged that the Migration Board’s control of the counsel’s suitability showed troublesome deficiencies, which has meant that persons who lack the requisite legal competence - and who in some cases have engaged in serious crime - have been able to receive state compensation in order to monitor the rights of asylum seekers during the asylum process.

A closer inspection of these counsels’ submissions revealed an astoundingly low quality. Despite the fact that the Migration Board has noted this, for example, by greatly reducing the compensation to the relevant counsel, these have subsequently received new appointments from the same authority (which they then mismanaged in the same way as previous assignments).

It is very problematic that inappropriate persons are appointed as public counsel. The right to counsel is a fundamental guarantee of legal certainty, which is particularly important in the asylum process, where a wrong decision can have disastrous consequences for the asylum seeker.

Typically, the applicants - for understandable reasons - also have difficulty monitoring their own interests during the process, for example as a result of traumatic experiences in the home country, lack of knowledge in the Swedish language and of Swedish legislation.

For these reasons, the state, as a rule, pays for public assistance in the asylum process. However, unlike what applies when appointing public defense officers, there is no formal requirement that the person being appointed as public counsel must be a lawyer or even have a law degree. Instead, it is a general rule that the person in question must be “suitable for the assignment”.⁶⁹

This led to a proposal from a number of academics and lawyers that the right to public counsel should be decided on by a court and not the Migration Agency.⁷⁰ This proposal has not led to any changes so far.

⁶⁷ JO, ‘Statement regarding the Migration Board’s list of legal counsels who are subject to monitoring, supervision and control’, 4500-2014, cited in the Annual Report 2014/2015, available at: <http://bit.ly/2I9LJMm>.

⁶⁸ Migration Agency, *Kvalitetschefens reviderade instruktion om standard för lämplighetsprövning av offentligt biträde*, I-35a/2017, 20 November 2017, available in Swedish at: <http://bit.ly/2FrNBOK>.

⁶⁹ Sverigesradio, “Juristerna, brotten och den svarta listan”, 2 April 2018, available in Swedish at: <https://bit.ly/3dnksrM>.

⁷⁰ Dagens Juridik, “Lagstiftarens elefant i rummet - Migrationsverkets rätt att förordna offentliga biträden”, 14 March 2018, available in Swedish at: <http://bit.ly/2Oqlsfh>.

In September 2020, a parliamentary committee proposed that an inquiry should be initiated looking into the public counselling system of the administrative court process, with an emphasis on the migration process.⁷¹

The 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 is currently no data available on the number of persons registered on that list, but some information is expected to become available in 2022.⁷² 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 must 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.

In 2019, legal counsel was granted in 17,099 regular cases and in 277 Dublin cases.⁷³ The Migration Agency does not have reliable data on this for 2020.⁷⁴

Asylum seekers can also approach NGOs for advice. It should be noted that some NGOs have cut back their services to asylum seekers while others such as the Swedish Refugee Law Center are expanding their services through increased funding from their constituent organisations the Church of Sweden, Caritas Sweden, Save the Children, Sweden and the Diocese of Stockholm. The Swedish Red Cross offers legal support through a hotline as well as by appointment, and its lawyers can act as legal counsel. The Red Cross prioritises cases concerning family reunification, persecution due to risk of torture and gender-based persecution.

⁷¹ Parliamentary committee of inquiry, *En långsiktig hållbar migrationspolitik*, available in Swedish at: <https://bit.ly/2MPZA1j>, 363.

⁷² Information provided by the Migration Agency's statistics unit.

⁷³ Information provided by the Migration Agency's statistics unit.

⁷⁴ Information provided by the Migration Agency's statistics unit.

2. Dublin (“Track 5A”)

The Dublin procedure was not suspended during COVID-19, with the exception of the two-weeks period in March 2020 when the Swedish Migration Agency suspended its activities. This means that the Migration Agency continued to issue and receive requests; as well as to receive and carry out transfers to countries which accepted Dublin returnees, albeit at lower levels due to travel restrictions and other applicable COVID-19 measure.

2.1. General

Dublin statistics: 2020

Accepted Dublin requests in 2020			
Accepted outgoing requests		Accepted incoming requests	
Total	1,238	Total	3,977
Take charge	685	Take charge	407
Italy	143	Greece	232
Poland	112	France	49
Germany	75	Germany	34
France	57	Unkown	28
Spain	44	Belgium	13
Greece	41	Finland	9
Lithuania	37	Italy	7
Netherlands	37	Netherlands	7
Latvia	34		
Czech Republic	25	Denmark	5
Finland	15	Switzerland	4
Switzerland	13	Spain	4
Austria	8	Cyprus	3
Portugal	8	Norway	3
Denmark	7	Great Britain	2
Croatia	6	Austria	2
Norway	5	Luxembourg	2
Belgium	4	Malta	1
Slovakia	3	Latvia	1
Estonia	3	Portugal	1
Romania	2		
Slovenia	2	Bulgaria	0
Bulgaria	2	Ireland	0
Cyprus	1	Iceland	0
Great Britain	1	Croatia	0
Ireland	0	Liechtenstein	0
Iceland	0	Poland	0
Luxembourg	0	Romania	0
Malta	0	Slovakia	0

Hungary	0	Slovenia	0
Take back	553	Take back	3,570
Germany	125	Germany	1,782
Italy	78	France	703
Denmark	73	Great Britain	275
Norway	51	Unknown	254
Finland	49	Denmark	119
France	38	Italy	95
Spain	28	Netherlands	70
Netherlands	27	Belgium	65
Austria	17	Norway	49
Switzerland	16	Ireland	35
Belgium	13	Switzerland	32
Romania	11	Finland	31
Poland	5	Austria	28
Slovenia	5	Iceland	10
Greece	3	Spain	9
Lithuania	3	Poland	4
Luxembourg	2	Luxembourg	3
Slovakia	2	Hungary	2
Great Britain	2	Greece	1
Bulgaria	1	Liechtenstein	1
Ireland	1	Portugal	1
Iceland	1	Czech Republic	1
Croatia	1	Bulgaria	0
Malta	1	Cyprus	0
Cyprus	0	Croatia	0
Latvia	0	Latvia	0
Liechtenstein	0	Malta	0
Portugal	0	Romania	0
Czech Republic	0	Slovakia	0
Hungary	0	Slovenia	0

Source: Information provided by the Migration Agency's statistics unit. "Unknown" refers to cases where the officer has not taken an active decision in the Dublin track and is then lodged as "unknown".

Outgoing Dublin requests by criterion: 2020		
Dublin III Regulation criterion	Requests sent	Requests accepted
Total:	2,148⁷⁵	1,238
"Take charge": Articles 8-17	671	685
Article 8 (minors)	12	3

⁷⁵ This number includes 216 requests registered as "unknown" by the Migration Agency. It is not known to the author which criteria are applied in such cases nor if they concern take charge or take back requests.

Article 9 (family members granted protection)	6	2
Article 10 (family members pending determination)	-	-
Article 11 (family procedure)	9	6
Article 12.1 (approved residence permits)	80	48
Article 12.2 (approved visa)	181	174
Article 12.4 (the applicant has a visa in another country, but unable to travel to that country)	376	302
Article 13.1 (entered country without permit)	367	52
Article 13.2 (remained in country without permit for at least 5 months)	2	0
Article 14 (visa free entry)	1	0
"Take charge": Article 16	-	-
"Take charge" humanitarian clause: Article 17(2)	4	2
"Unknown"	-	96
"Take back": Article 18	894	553
Article 18 (1) (b)	501	283
Article 18 (1) (c)	6	5
Article 18 (1) (d)	387	207
Article 20(5)	-	-
"Unknown"	-	58

Source: Information provided by the Migration Agency's statistics unit. The latter also shared an "unknown" category, but it is unclear to the authors of this report what these cases refer to and which criteria was applied to them.

Incoming Dublin requests by criterion: 2020		
Dublin III Regulation criterion	Requests received	Requests accepted
Total:	5,544⁷⁶	3,977
"Take charge": Articles 8-17	474	407
Article 8 (minors)	122	90
Article 9 (family members granted protection)	71	32
Article 10 (family members pending determination)	19	16
Article 11 (family procedure)	17	5
Article 12.1 (approved residence permit in another member state)	24	12
Article 12.2 (approved visa)	24	28
Article 12.4 (applicant has approved visa in another state, but unable to travel)	77	62
Article 13.1 (entered country without permit)	0	0
Article 13.2 (remained in country without permit)	2	0
Article 14 (visa free entry)	1	1
"Take charge": Article 16	3	3
"Take charge" humanitarian clause: Article 17(2)	114	67

⁷⁶ This number includes 1,131 requests registered as "unknown" by the Migration Agency. It is unclear to the author of this report what these cases refer to and which criteria was applied to them

"Unknown"		91
"Take back": Articles 18 and 20(5)	3,939	3,570
Article 18 (1) (b)	3,323	2,404
Article 18 (1) (c)	6	5
Article 18 (1) (d)	602	492
Article 20(5)	8	6
"Unknown"		663

Source: Information provided by the Swedish Migration Agency. The latter also shared an "unknown" category, but it is unclear to the authors of this report what these cases refer to and which criteria was applied to them.

Outgoing Dublin transfers: 2020		
	Voluntary removal	Forced removal
Total	1,742	450
Germany	865	103
France	251	37
Great Britain	96	4
Italy	85	111
Denmark	84	20
Norway	68	7
Netherlands	45	3
Greece	41	25
Spain	39	27
Finland	39	5
Poland	25	48
Belgium	22	2
Switzerland	15	6
Hungary	10	1
Austria	10	7
Ireland	9	0
Portugal	8	1
Latvia	7	7
Lithuania	7	11
Estonia	4	0
Romania	4	8
Bulgaria	3	4
Iceland	3	1
Malta	2	2
Slovakia	0	1
Czech Republic	0	9

Source: Information provided by the Swedish Migration Agency.

2.1.1. Application of the Dublin criteria

In 2020, Sweden issued 2,148 and received 5,544 requests under the Dublin Regulation. 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 in 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 2020, 11,639 fingerprints were submitted, and 3,903 hits were made in Eurodac and 4,342 in VIS, of which 767 indicated Dublin cases. The top five countries of origin were Afghanistan, Iraq, Syria, Somalia and Palestine.⁷⁷

In 2020, the Swedish government adopted two acts relevant to fingerprinting. The first act entered into force on 1 December 2020 and foresees that the Swedish Migration Agency, the Swedish Police and Sweden's diplomatic missions abroad are allowed to process sensitive data under the Aliens Data Act (2016:27).⁷⁸ They would also be authorised to test and develop the existing system of managing third-country nationals' personal data. The second act entered into force on 28 December 2020 and amends the Aliens Act and the Act on the Schengen Information System (2000:344).⁷⁹ It foresees that third-country nationals will have to be fingerprinted and photographed at entry and exit for checks against the Schengen Information System (SIS). It also allows several authorities such as the Swedish Migration Agency, the Swedish Police, the Swedish Customs and the Coast Guards to take individuals' photos and fingerprints for counter-checking against data in SIS.

2.1.2. The dependent persons and discretionary clauses

Sweden made 4 requests based on the "humanitarian clause" (Article 17(2) Dublin Regulation) in 2020 and none based on the "dependent persons' clause" (Article 16 Dublin Regulation), and received 114 and 3 incoming requests on those grounds respectively.

2.2. Procedure

Indicators: Dublin: Procedure

1. Is the Dublin procedure applied by the authority responsible for examining asylum applications?
☒ Yes ☐ No
2. On average, how long does a transfer take after the responsible Member State has accepted responsibility?
Not available

Track 5A deals with cases under the Dublin Regulation. These cases are not sent to the Distribution Unit but channelled immediately into this track. The Dublin Unit had 34 officials in 2020.⁸⁰

If another member state is deemed to be responsible and a transfer decision is made, a combined notification and return interview is held with the applicant. The transfer decision is enforceable and transfer travel planning can begin immediately. In Track 5A, there are no ID issues to consider so the focus of the Migration Agency is on the applicant's attitude to transfer and the availability for executing the transfer.

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

⁷⁷ Information provided by the Swedish Migration Agency.

⁷⁸ Government. Regerings proposition 2020/21:5. *Behandling av känsliga personuppgifter i testverksamhet enligt utlänningsdatalagen*, available at: <https://bit.ly/3jYyKR4>.

⁷⁹ Government. Regeringens proposition 2020/21:6. *Ändrade bestämmelser om fotografier och fingeravtryck i SIS II-regelverket*, available at: <https://bit.ly/2ZqSSIB>.

⁸⁰ Information provided by the Swedish 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 several languages outlining the mechanisms of the Dublin Regulation (see [Provision of information on the procedure](#)), 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.

2.2.1. Individualised guarantees

The Migration Agency does not seek individualised guarantees prior to a transfer.⁸¹

In March 2019, the Migration Agency confirmed in its legal guidance regarding Dublin returns to **Italy** that no guarantees need be sought in advance when transferring families as the Italian authorities have reissued guarantees. It stated that: "Italy has, in a new circular to the Member States, provided new general guarantees regarding the reception of families of children transferred under the Dublin Regulation. It is the Migration Agency's opinion that these guarantees are sufficient for transfers of families with children according to the Dublin Regulation to be made without individual guarantees being obtained."⁸²

2.2.2. Transfers

Most Dublin transfers take place on a voluntary basis. 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 facilities 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.

In 2020 Sweden received 5,544 Dublin incoming requests and issued 2,148 outgoing requests to other Dublin States. A total of 2,192 Dublin transfers were carried out to another Dublin country in 2020, of which 1,742 were under the responsibility of the Migration Agency and thus left voluntarily and 450 were under the responsibility of the Police and include both voluntary and forced removals.⁸³

The average processing time for all Dublin cases in 2020, i.e. until a transfer decision was issued, was 49 days, down from 58 in 2019 and 72 in 2018.⁸⁴

⁸¹ Information provided by the Migration Agency, August 2017.

⁸² Migration Agency, Rättsligt ställningstagande angående överföring av barnfamiljer till Italien i enlighet med Dublinförordningen (EU) nr 604/2013, SR 08/2019, 25 March 2019, available in Swedish at: <https://bit.ly/2Puxgiq>, which replaced the 2016 guidance.

⁸³ Information provided by the Migration Agency's statistics unit.

⁸⁴ Migration Agency, Monthly statistical report for December 2020, 12.

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?
☒ Yes ☐ No
❖ If so, are interpreters available in practice, for interviews? ☒ Yes ☐ No
2. Are interviews conducted through video conferencing? ☐ Frequently ☒ Rarely ☐ Never

According to a precedent-setting ruling by the Migration Court of Appeal,⁸⁵ 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.

Despite COVID-19, the Swedish Migration Agency was able to carry out interviews in person, with some exceptions in Southern Sweden before they initiated and received protective equipment to protect their staff and asylum applicants.⁸⁶ In 2020, a total of 108 asylum interviews were carried out in the context of the Dublin procedure, out of which 44 were carried out by video.⁸⁷

Questions are asked about relatives in other EU countries, previous stays in EU countries, the health condition of the applicant, any objections to being sent to the responsible EU Member State, 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?
☒ Yes ☐ No
❖ If yes, is it ☒ Judicial ☐ Administrative
❖ If yes, is it suspensive ☒ Yes ☐ No

The application is dismissed as inadmissible when the Dublin Regulation applies.⁸⁸ 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: Appeal](#).

In line with Article 27(3)(c) of the Dublin III Regulation, if an applicant requests for their appeal to have suspensive effect, the transfer is automatically suspended until the Court decides on whether to suspend the implementation of the transfer.⁸⁹ Moreover, appeals in Dublin cases are often expedited quickly by

⁸⁵ Migration Court of Appeal, MIG 2007:4, UM 607-06, 22 January 2007, available at: <http://bit.ly/2oZzsl1>.

⁸⁶ Information provided by the Swedish Migration Agency, March 2020.

⁸⁷ Information provided by the Swedish Migration Agency.

⁸⁸ Ch. 5, Section 1c Aliens Act.

⁸⁹ Ch. 12, Section 9 a Aliens Act.

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.⁹⁰ 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.⁹¹

The Migration Court of Appeal decided on 24 November 2016 to refer the case back to the Migration Court for new consideration.⁹² The Migration Court in turn referred the case back to the Migration Agency which decided it was still a Dublin case and this standpoint was not changed by the courts on appeal.⁹³

On 26 February 2020, the Migration Court of Appeal found in the case MIG 2020:4 that a decision by the Migration Agency to not take charge of an asylum seeker upon request from another member state cannot be appealed.⁹⁴ In the present case, the Migration Court of Appeal also rejected a request from the individual concerned that the Court should request a preliminary ruling from the Court of Justice of the European Union, despite the fact that other national courts in Germany and the UK have found that asylum seekers have a right to appeal rejections of take charge requests.⁹⁵

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 of Appeal has in the case MIG 2014:29 expressed that the Migration Agency can appoint a public counsel in Dublin cases, but that it can also consider that there is no need for a counsel. In the same case, the Court also expressed that a public counsel can be appointed at second instance, in case the appeal has a reasonable prospect of success. In practice, legal counsel is not made available at first instance in Dublin cases, and the Migration Courts are also very restrictive in appointing public counsels.⁹⁶

⁹⁰ CJEU, Case C-155/15 *Karim v. Migrationsverket*, OJ 2015 C198/23.

⁹¹ CJEU, Case C-155/15 *Karim v. Migrationsverket*, Judgment of 7 June 2016, available at: <http://bit.ly/2kKfKa9>.

⁹² Migration Court of Appeal, MIG 2016:24, UM 6068-14, 24 November 2016, available at: <http://bit.ly/2km3Qpk>.

⁹³ Information provided by Migration Agency, February 2018.

⁹⁴ Migration Court of Appeal, MIG 2020:4, 26 February 2020, see EDAL summary at: <https://bit.ly/3bN6BZv>.

⁹⁵ See e.g. UK Upper Tribunal, *MS [a child by his litigation friend MAS] v. Secretary of State for the Home Department*, 19 July 2018.

⁹⁶ There is a right to free public counsel 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 public counsel.

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? Hungary

To Hungary

In March 2019, the Migration Agency announced it considers that there are well-founded reasons to assume that there are currently such systemic deficiencies in the asylum procedure and reception conditions in **Hungary** referred to in Article 3(2) of the Dublin Regulation.⁹⁷ These deficiencies entail a risk of inhuman or degrading treatment within the meaning of Article 4 of the Charter of Fundamental Rights of the European Union.

In the event that Hungary is found to be the responsible State in accordance with the Dublin Regulation, it is not possible to transfer the applicant there. In turn, this means that the Migration Agency will in these cases continue to examine the criteria set out in the Dublin Regulation in order to determine whether another Member State can be designated as responsible. In the event that such a state cannot be determined, Sweden is the responsible state for the examination of the application.⁹⁸

Previously, the Migration Agency had not suspended all transfers to Hungary and still delivered Dublin decisions. However, only 10 persons were forcibly removed from Sweden to Hungary during 2017 according to statistics from *Kriminalvårdens transporttjänst*. If the decisions to remove to Hungary are not carried out within six months then the case automatically becomes Sweden's responsibility. In 2017, 10 persons have been transferred to Hungary even though decisions were taken to transfer 57 persons there, which Hungary had accepted. In 2018, 2019 and 2020, no persons were transferred to Hungary.

To Greece

In February 2018, the Migration Agency decided to reinstate transfers to Greece. The decision was made with reference to the recommendation from the European Commission, which was issued almost a year earlier.⁹⁹ The Migration Agency does not take any particular measures with regard to transfer to Greece, but they do take into consideration the recommendations from the Commission.¹⁰⁰ In 2020, 519 requests were issued to Greece, and 688 decisions were taken. This resulted in 46 take charge decisions and 3 take back decisions.¹⁰¹ During 2020, 66 transfers to Greece were carried out, of which 41 were voluntary departures and 25 forced transfers.¹⁰²

⁹⁷ Migrationsverket, *Rättslig kommentar angående överföringar till Ungern i enlighet med Dublinförordningen*, SR 06/2019, 4 March 2019, available in Swedish at: <http://bit.ly/2HEERcY>.

⁹⁸ Migrationsverket, *Rättslig kommentar angående överföringar till Ungern i enlighet med Dublinförordningen*, SR 06/2019, 4 March 2019, available in Swedish at: <http://bit.ly/2HEERcY>.

⁹⁹ Recommendation C(2016) 8525 of 8 December 2016

¹⁰⁰ Information from the Migration Agency, Dublin Unit, July 2019.

¹⁰¹ Information provided by the Migration Agency's statistics unit.

¹⁰² Information provided by the Migration Agency's statistics unit.

2.7. The situation of Dublin returnees

Dublin returnees with a final negative decision in Sweden are normally taken into custody on arrival and measures taken to facilitate their removal. If their case is still pending in Sweden and there is no final negative decision, then they are placed in an accommodation centre near a point of departure and continue the procedure in their ongoing case.

During 2018, the Aliens Act was amended concerning responsibility for the reception of Dublin returnees which means that the police authority takes over the responsibility from the Migration Agency regarding the reception of persons who have been accepted in accordance with the Dublin Regulation when there is a legally enforceable decision on cancellation or expulsion.¹⁰³

Transfers to Sweden for “take back” cases with a legally enforceable removal order in Sweden are not automatically provided with accommodation by the Migration Agency or the Police on arrival if they are unwilling to return voluntarily to their home country. This applies also to families with children. Since the changes to the Law on the Reception of Asylum Seekers (LMA) in 2016 only families with minor children can be allowed to stay in this accommodation while the removal order is pending and after the one-month period for voluntary return has passed. Families who leave this accommodation for another EU country and are returned according to the Dublin Regulation have no right to re-access accommodation from the Migration Agency. There have been recent cases come to the knowledge of FARR of Afghan families returned from Germany and France who are forced into destitution unless they agree to return to Afghanistan voluntarily. In the latter case they can access accommodation and obtain a daily allowance.

3. Admissibility procedure (“Track 5B” and “Track 5C”)

3.1. General (scope, criteria, time limits)

According to Chapter 5, Section 1b of the Aliens Act, an application can be dismissed as inadmissible where the applicant:

1. Has obtained international protection in another EU Member State;
2. Comes from a [First Country of Asylum](#);
3. Comes from a [Safe Third Country](#).

In practice, the Migration Agency deals with cases of persons benefitting from protection in another EU country under “Track 5B”. Cases concerning third countries are processed under “Track 5C”. The Migration Agency shall take a decision on the admissibility of the application within 3 months. In 2020, the Migration Agency received 292 applications that were processed under Track 5B and 6 applications were processed under Track 5C. 336 decisions were taken under Track 5B and 9 decisions taken under track 5C.¹⁰⁴

3.2. Personal interview

There are no differences in the way the personal interview is conducted in cases where grounds for inadmissibility.

¹⁰³ Chapter 10, Section 13 Aliens Act.

¹⁰⁴ Information provided by the Migration Agency's statistics unit.

3.3. Appeal

Indicators: Admissibility Procedure: Appeal

☐ Same as regular procedure

1. Does the law provide for an appeal against an inadmissibility decision?

❖ If yes, is it

❖ If yes, is it suspensive

☒ Yes

☒ Judicial

☐ Yes

☐ No

☐ Administrative

☒ Some grounds ☐ No

The Migration Agency may take a decision with immediate enforcement for applications dismissed on the basis of protection in another EU Member State or the first country of asylum concept; not for safe third country cases.¹⁰⁵

Therefore the appeal has automatic suspensive effect in cases dismissed on safe third country grounds, but it has no automatic suspensive effect in cases concerning protection in another EU Member State and in first country of asylum cases. That said, the December 2018 legal opinion of the Migration Agency states that a decision with immediate enforcement should be taken in first country of asylum cases when it is obvious that the applicant enjoys sufficient protection in the country concerned.¹⁰⁶

3.4. Legal assistance

As a rule, legal assistance is not granted in cases falling under the grounds for inadmissibility, unless a more thorough assessment of first country of asylum or safe third country considerations is required. Such an assessment is conducted by the Migration Agency depending on the difficulty of the case. However, legal assistance is always granted to unaccompanied children and may exceptionally be granted to applicants depending on factors such as age or mental illness.¹⁰⁷

4. Border procedure (border and transit zones)

There is no border procedure in Sweden.

5. Accelerated procedure ("Track 4")

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

The law makes no express reference to "accelerated procedures". However, the Migration Agency has established a dedicated track for two categories of cases:

- Manifestly unfounded claims ("Track 4A") and
- Claims from nationalities with a recognition rate below 20% ("Track 4B"). The countries currently listed are: Albania, Armenia, Azerbaijan, Belarus, Bosnia and Herzegovina, Colombia, Côte d'Ivoire, Cuba, Egypt, El Salvador, Georgia, Kazakhstan, Kyrgyzstan, Kosovo, North Macedonia, Morocco, Moldova, Mongolia, Montenegro, Serbia, Tunisia, Ukraine and Vietnam.

In 2020, 59 persons had their applications rejected as manifestly unfounded, down from 149 in 2019. These applications were processed under Track 4A. However, in 2020, 3,385 persons received a rejection decision under Track 4B, compared to 5,349 in 2019.

¹⁰⁵ Ch. 8, Section 19 Aliens Act.

¹⁰⁶ Migration Agency, *Rättsligt ställningstagande angående avvisning av ansökan om uppehållstillstånd med stöd av 5 kap. 1 b § utlänningslagen*, 44/2018, 6 December 2018, available in Swedish at: <https://bit.ly/2L00rv8>, 5 et seq.

¹⁰⁷ Migration Agency, *Rättsligt ställningstagande angående avvisning av ansökan om uppehållstillstånd med stöd av 5 kap. 1 b § utlänningslagen*, 44/2018, 6 December 2018, available in Swedish at: <https://bit.ly/2L00rv8>, 5 et seq, pp 8-9.

Under the Aliens Act, there is a basis for handling manifestly unfounded claims in an accelerated procedure. The Migration Agency may issue an immediately enforceable return order “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.”¹⁰⁸

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.¹⁰⁹ 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.

A 2018 legal instruction by the Legal Unit of the Migration Agency,¹¹⁰ established that an expulsion with immediate effect should be considered in the following cases:

- The application is unrelated to the right of asylum;
- The application presents manifestly insufficient grounds for asylum;
- EU citizens applying for asylum;
- The applicant has provided false information in all essential elements;
- If only health reasons are claimed.

Since the CJEU ruling in *A v Migrationsverket*,¹¹¹ published on 25 July 2018, Sweden can no longer use the procedure for immediately expelling persons with manifestly unfounded claims on the basis that the applicant comes from a [Safe Country of Origin](#), since Swedish national legislation does not include a list of safe countries of origin established in accordance with Annex I to the recast Asylum Procedures Directive duly notified to the Commission and the enactment of additional implementation rules and modalities.

In the *A* ruling, which concerns the interpretation of Articles 31(8)(b) and 32(2) of the recast Asylum Procedures Directive, the CJEU held that a Member State cannot rely on the rebuttable presumption under Articles 36 and 37 of the recast Asylum Procedures Directive in respect of the safe country of origin concept and subsequently find the application to be manifestly unfounded in accordance with Article 31(8)(b) without having fully implemented and complied with the procedures under the Directive relating to the designation of countries as safe countries of origin.

Extenuating circumstances leading to access to the full procedure could be health reasons or cumulative grounds. The Migration Agency has updated its position on expulsion in such cases with immediate effect in its legal guidance, including in light of the abovementioned CJEU ruling in *A v Migrationsverket* as well as *Gnandi*.¹¹² The Migration Agency states in its guidance that the deadline for voluntary departure does not begin to run as long as the person has the right to remain and the person must also not be detained for removal purposes. Regarding *A v Migrationsverket*, the Agency states that if the applicant is not entitled to protection because it is assessed there is a sufficient protection by the authorities in the home country, or the asylum grounds are otherwise deemed insufficient, a decision cannot be taken on rejection with immediate enforcement pursuant to Chapter 8, Section 19 of the Aliens Act, but a rejection without an order for immediate enforcement is possible.¹¹³

¹⁰⁸ Ch. 8, Section 19 Aliens Act. See also Ch. 12, Section 7 Aliens Act.

¹⁰⁹ Migration Court of Appeal, MIG 2006:7, UM 230-06, 31 October 2006; MIG 2010:22, UM 2244-10, 22 December 2010.

¹¹⁰ Migration Agency, *Rättsligt ställningstagande angående avvisning med omedelbar verkställighet till hemlandet enligt 8 kap 19 § utlänningslagen*, SR 43/2018, 12 December 2018, available in Swedish at: <http://bit.ly/2MwVawu>.

¹¹¹ CJEU, Case C-404/17, *A v. Migrationsverket*, Judgment of 25 July 2018, EDAL, available at: <http://bit.ly/2Ubxvn6>.

¹¹² CJEU, Case C-181/16 *Gnandi v Etat belge*, Judgment of 19 June 2018, EDAL, available at: <https://bit.ly/2ITsDwX>.

¹¹³ Migrationsverket, *Rättsligt ställningstagande angående avvisning med omedelbar verkställighet till hemlandet enligt 8 kap. 19 § utlänningslagen*, SR 43/2018, 6 December 2018, available in Swedish at: <http://bit.ly/2CBz6sx>.

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

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.¹¹⁴ 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.

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 ☒ Some grounds ☐ No

There is no difference in time limits 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.¹¹⁵

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, was 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 law provides that an appeal has automatic suspensive effect until the Migration Court has made a decision on whether the removal should be suspended pending the outcome of the appeal.¹¹⁶

The 2018 guidance of the Migration Agency clarifies that when appealing against decisions with immediate enforcement, a Migration Court must examine the issue of suspending enforcement. Enforcement cannot take place from the decision during the appeal deadline and up to the migration court's examination of the issue of suspension. Nor can enforcement measures be taken.¹¹⁷

¹¹⁴ Migration Court of Appeal, MIG 2007:4, UM 607-06, 22 January 2007.

¹¹⁵ Section 44, The Administrative Procedure Act (2017:900).

¹¹⁶ Ch. 12, Section 8a Aliens Act.

¹¹⁷ Migrationsverket, *Rättsligt ställningstagande angående avvisning med omedelbar verkställighet till hemlandet enligt 8 kap. 19 § utlänningslagen*, SR 43/2018, 6 December 2018, available in Swedish at: <http://bit.ly/2CBz6sx>.

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

The Aliens Act states that there is no automatic obligation to provide legal counsel in manifestly unfounded cases, although this is possible in cases of vulnerability.¹¹⁸ 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. 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 children
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. These are not defined but the Migration Agency has set out standards for the reception of vulnerable asylum seekers, mainly including children, women, disabled persons, elderly, persons with mental disorders or serious illnesses, and persons vulnerable to harassment or exploitation due to sexual orientation or gender identity.

When commenting on the legislative proposal on the recast Asylum Procedures and Reception Conditions Directives, the Migration Agency, as well as a number of civil society organisations, suggested the lawmaker to specify how identification of vulnerable groups should be carried out, but the government did not believe it to be necessary (see [Special Procedural Guarantees](#)). It can be argued that the process of making sure the Directives are followed have been delayed, and that different authorities have taken different approaches. 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.¹¹⁹ They have issued a standard through the Quality Assurance Unit of the Migration Agency which

¹¹⁸ Ch. 18, Section 1 Aliens Act.

¹¹⁹ Act (2016:1243) amending the Aliens Act, 16 December 2016, available in Swedish at: <http://bit.ly/2kP9vkz>.

was updated on 25 September 2017.¹²⁰ 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 LGBTQI people with special needs of networking and social context.

When there are no places available at sheltered housing, LGBTQI persons have been able to share smaller apartments that are generally located in or near medium-sized cities with proximity to target groups and where health care and activities of civil society are designed for LGBTQI people.

1.1. Screening of vulnerability

All asylum seekers are offered health screening and a majority of them choose to undergo a health check in practice. 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.

The Migration Agency does not yet collect disaggregated statistics on the number of asylum seekers identified as vulnerable, with the exception of unaccompanied minors.¹²¹ However, the standard published on 25 September 2017 makes this possible, although this has not been implemented systematically so no statistics are publicly available. Under the standard, all Migration Agency staff are required to report vulnerabilities in an official note that is fed into a common database, mentioning at which stage in the procedure vulnerability is observed and what measures this has led to. It is stressed that a vulnerability assessment must always be made in the initial process.

This standard is monitored by the Migration Agency to evaluate whether assessments of special needs have been made in all cases, how the documentation of these needs has been recorded and what measures have ensued from the assessment. It is noted in the standard that the list of vulnerabilities in the EU Directives is not exhaustive. Some special needs need not be registered in an official note. Examples of these are when the Migration Agency notifies the need for a guardian or informs a municipality that an unaccompanied child needs protection there or the response of an applicant who has requested a case officer, interpreter or public counsel of a specific gender.

In 2020, 366 cases of suspected human trafficking were identified at the Migration Agency, including: 221 women and 145 men. 48 were children, out of which 14 girls and 34 boys. The majority of the reported cases concerned persons originated from **Nigeria** (51), **Thailand** (27) and **Morocco** (21). The Migration Agency provided information to the Police in 237 cases. Moreover in 2020 a total of 86 persons accepted temporary residence permits, out of which 49 women (3 girls) and 15 men (3 boys).¹²²

1.2. Age assessment of unaccompanied children

The Migration Court of Appeal has clarified in a precedent-setting ruling of 2014 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.¹²³ 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 there are strong indications that the applicant has reached majority, then the claimed age can be altered in the records and the person transferred to the procedure for adults. These assessments made by the

¹²⁰ Migration Agency, *Kvalitetschefens instruktion om standard för dokumentation av särskilda behov*, I-78/2017, 25 September 2017.

¹²¹ Information provided by the Migration Agency, January 2018.

¹²² Migration Agency, Annual Report 2020, , Dnr: 1.3.2-2021-1600, 89-90

¹²³ Migration Court of Appeal, MIG 2014:1, UM 2437-13, 11 February 2014, available at: <http://bit.ly/2jQwVWr>.

Migration Agency have been subject to criticism, as reported in the [previous updates of this AIDA report](#). In a legal position regarding age assessments, the Migration Agency clarifies that it can only be applied in unambiguously clear cases, where there is no room for a different assessment than that the applicant is an adult.¹²⁴ It must be obvious that the applicant is an adult, or that there is evidence proving the applicant's age, otherwise the age should not be altered.

An applicant can make his or her date of birth and/or minority probable. When there is a doubt on the minority (but not obvious as mentioned above) the Aliens Act foresees that the Migration Agency must make a temporary decision on the age.¹²⁵ In the legal position the Migration Agency states that the starting point is that such an age assessment should primarily be made on the basis of documentary evidence together with the applicant's own oral information. If this evidence is not sufficient and the Migration Agency therefore considers making a decision whereby the applicant is assessed to be an adult, the Agency is obliged to offer the applicant a medical age assessment.¹²⁶ Consent of the applicant and his or her guardian is required. The cost of such an examination is borne by the state

In the new framework for age assessments, the temporary decision on the age of the applicant can be appealed, but applies immediately even if it is appealed. However, the Migration Court may decide that a temporary decision will not apply until further notice. At the same time, when the Migration Agency takes a decision regarding the asylum claim, it must make a final assessment of the applicant's age. The consideration on the applicants age in the decision in the asylum case replaces the temporary decision on age.

Any authority that comes into contact with unaccompanied asylum-seeking children needs to take an independent position on the applicant's age within the framework of its activities and the rules governing it. However, in practice other authorities will share the age assessment of the Migration Agency and act accordingly.

Medical methods used

When almost 35,000 unaccompanied minors sought asylum in Sweden in 2015, critics were raised regarding the need to develop more reliable methods to establish whether an applicant was a child or not. In the second half of 2016 and in early 2017, many unaccompanied children had their age adjusted to 18 summarily by the Migration Agency because they had not been able to provide acceptable proof of their stated age.

The Legal Unit of the Migration Agency carried out a review of cases involving age assessment in November 2016 i.e. before the new system was launched. It noted in its report that several areas for improvement had been identified, *inter alia* that 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 incorrect standard of proof is applied.¹²⁷ The government gave instructions to the National Board of Forensic Medicine (*Rättsmedicinalverket*, RMV) to investigate more reliable methods, while at the same time recognising that absolute accuracy was not achievable.

RMV has chosen two methods to assess age and introduced a new system in March 2017. Assessments are conducted based on medical examination of wisdom teeth and knee joints. 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

¹²⁴ Migration Agency, *Rättsligt ställningstagande Åldersbedömning*, RS/040/2021, citing Government, prop. 2016/17:121, *Åldersbedömning tidigare i asylprocessen*, available in Swedish at: <https://bit.ly/3vDAwMW>, 17-18.

¹²⁵ Ch. 13, Section 17, Aliens Act.

¹²⁶ Ch. 13, Section 18, Aliens Act.

¹²⁷ Migration Agency, *Tematisk kvalitetsuppföljning av åldersbedömning i samband med beslut om uppehållstillstånd*, 1.34-2016-178414, 28 November 2016.

external clinics. Based on the results of these studies, RMV makes a medical age assessment using a standardised matrix. A coroner in RMV will then issue a forensic opinion on the age in the form of a probability assessment in text form. The forensic opinion is thus designed as a probability assessment.¹²⁸

The statement from RMV will then become part of the supporting evidence that the Migration Agency uses to issue a decision on age. However, critique has been directed at the authorities as significantly more weight is given to medical assessments than to other sources of information. This was also criticised by the Council of Europe Commissioner for Human Rights following a visit to Sweden in 2018.¹²⁹

In 2020, a total of 114 persons have been considered as adults following an age assessment procedure:

Medical age assessments: 2020		
Forensic opinions on age by the National Board of Forensic Medicine	Male	Female
Total	134	42
Indicates that the person is 18 or over	93	21
Possibly indicates that the person is under 18	41	0
Possibly indicates that the person is 18 or over	-	-
Indicates that the person is under 18	-	7
No assessment if person is over or under 18 could be made	-	14

Source: National Board of Forensic Medicine, *Statistik*, available in Swedish at: <https://bit.ly/2NukOSX>.

Critique on reliability and accuracy

The methods used for age assessments have been heavily criticised by the medical community, including by the experts obliged to carry out the tests. Some experts at RMV have resigned to protest against the methods used and the fact that it is not the dentists or the X-ray specialists who signs the official report but rather persons employed by the RMV.¹³⁰ Both the Paediatric Medical Association, as well as international experts on age assessment, have distanced themselves from the method of measuring the knee joint. The media has also put forward criticism of the reliability of the methods used and the weight the assessment carries in the decision of the Migration Agency. Background information on the matter is included in the [previous versions of this AIDA report](#).

In January 2020, the Swedish Bar Association elaborated on their position from 2016 in their guidance to lawyers representing vulnerable clients. It was *inter alia* stated that a lawyer's involvement in the client's age assessment is at risk of being considered contrary to good practice, but that the situation is complex, as the client's refusal to undergo a medical age assessment may, for example, risk being interpreted to the client's detriment. Great caution is required in these cases and advice from the lawyer on participation must be preceded by careful consideration and explanations for the client and a possible legal guardian.¹³¹

¹²⁸ New findings regarding the reliability of the methods vis-à-vis female asylum seekers led to a suspension of age assessments in November 2017 pending the outcome of a more in-depth investigation by the RMV. The investigation resulted in new guidelines regarding female asylum seekers and the tests were resumed.

¹²⁹ Council of Europe Commissioner for Human Rights, 'Sweden should enhance protection of asylum seekers and persons with disabilities', 16 February 2018, available at: <http://bit.ly/2oxGE8z>.

¹³⁰ Upsala Nya Tidning, *Hon slutar i protest mot åldersbedömningar*, 1 February 2018, available in Swedish at: <https://bit.ly/3u0tDo9>.

¹³¹ Swedish Bar Association, *Promemoria Advokatens uppdrag för svaga och utsatta klienter*, updated January 2020, 35-36.

In response to the public and professional criticism, RMV published a statement on 18 January 2018 explaining its methods and the political and legal context in which its task has been formulated.¹³²

In December 2018, the Swedish Council on Medical Ethics sent a letter to the Department of Justice requesting the Government to set up an independent review of the age assessments¹³³. The Council considers that there are several uncertainties regarding medical age assessments in the asylum process. One question is whether the National Board of Forensic Medicine (RMV) declares the risk of misjudging a child in an accurate way in the forensic statement. It must be ensured that the statements regarding medical age assessment are appropriately designed and sufficiently clear (e.g. with regard to uncertainties) in order for the Migration Agency to be able to make a lawful assessment of the asylum seeker's age.

As mentioned above, critique has been directed at the authorities as significantly more weight is given to medical assessments than to other sources of information. NGOs and lawyers have also been critical of the authorities' application of the principle the benefit of the doubt, a risk that was also raised in the abovementioned letter from the Swedish Council on Medical Ethics relating to the unclarity mentioned above.

In April 2019, the Social Democrats and the Green Party decided that a commission of inquiry would be set up.¹³⁴ It has been decided that the commission of inquiry will assess the situation through an independent review and shall submit its findings by 31 May 2024 at the latest. A first sub-report providing information on the methodology that will be followed and mapping the current scientific expertise on the matter shall be submitted by 11 June 2021.¹³⁵

Age assessment procedures have also been litigated before courts. In May 2019, the Swedish Refugee Law Center and Civil Rights Defenders brought a case on wrongful age assessment of an unaccompanied child before the Chancellor of Justice (*Justitiekanslern*). The case concerns the violation of the rights of an unaccompanied child who applied for asylum in Sweden in 2015 and was rejected as the result of an age assessment conducted by RMV. The RMV medical examination of his wisdom teeth established that he was likely to be a minor, while the result of the examination of his knee joints established that he was likely to be above 18 years old. A second opinion from private medical experts as well as several personal documents supported the boy's claim of being a minor.¹³⁶ Nevertheless, in June 2020, the Chancellor of Justice found that there had been no human rights violation. The Chancellor of Justice refers to the fact that the Migration Agency had granted the boy a temporary residence permit for studies and that the expulsion order had not been implemented. The Chancellor of Justice did not direct any critique regarding the age assessment, either in the individual case or on the issue as a whole, but referred, among other things, to the above mentioned commission of inquiry.¹³⁷

During 2020 criticism has been directed at the commission of inquiry because of its composition as the designated experts are known for having defended medical age assessments in the past.¹³⁸

¹³² RMV, 'Förtydligande om medicinska åldersbedömningar', 12 January 2018, available in Swedish at: <http://bit.ly/2BKXEAK>.

¹³³ Swedish Council on Medical Ethics, *Oklarheter kring medicinska åldersbedömningar i asylprocessen*, dnr Komm2018/01085/S 1985:A, available in Swedish at: <https://bit.ly/3drQSA4>.

¹³⁴ Svenska Läkaresällskapet, *Regeringen tillsätter en oberoende utredning av medicinska åldersbedömningar*, 2019, available in Swedish at: <https://bit.ly/2Gdbdtw>.

¹³⁵ Government, *Utökat kunskapsunderlag om Rättsmedicinalverkets metod för medicinsk åldersbedömning i asylprocessen*, Dir. 2020:64, available in Swedish at: <https://bit.ly/39uG5Us>.

¹³⁶ ECRE, 'Sweden: Case against the State on Medical Age Assessment Before Chancellor of Justice', available at: <https://bit.ly/3aJJ7Sx>.

¹³⁷ Civil Rights Defenders, *Civil Rights Defenders kritisk till JK-beslut om medicinska åldersbedömningar*, available in Swedish at: <http://bit.ly/3cQ2TPu>.

¹³⁸ Sjukhusläkaren. *Finns fler stora frågetecken kring den här utredningen*, 14 October 2020, available in Swedish at: <https://bit.ly/3k3JjIS>.

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

2.1. Adequate support during the interview

Although there is no specialised unit dealing with vulnerable groups at the Migration Agency, 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, *inter alia* based on European Asylum Support Office (EASO) training modules, 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 LGBTQI grounds.¹³⁹

Examples of measures taken given in the standard developed by the then Quality Assurance Unit of the Migration Agency on 25 September 2017 include prolonging the procedure to allow time for the applicant to put forward his or her claims; choosing a suitable residence for the applicant; as well as flagging medical care needs to the health authorities. It is stressed that employees of the Agency should refrain from making any medical assessment but that they should note what the applicant states about their medical condition. If the applicant states they have suffered torture then the veracity of that statement must not be investigated by agency employees. A suitable measure in such cases can be to lengthen the time for the procedure and, if necessary, book a medico-legal investigation.¹⁴⁰

Persons with special needs are generally channelled in the regular procedure, in particular where there are indications that an age assessment is needed or indications of human trafficking, torture, or issues of sexual orientation or gender identity. 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.

On 1 January 2020, the Convention on the Rights of the Child was incorporated into Swedish national law and entered into force. However, according to Save the Children and Stockholm City Mission the incorporation has not yet resulted in any improvements for children in asylum procedures as of November 2020.¹⁴¹ The Swedish Migration Agency has explained that the legislative change mainly aims to strengthen the rights of children in law and practice, but it remains to be seen how this will be implemented in practice. The Migration Agency also stated that the new functioning of age assessment procedures will depend on developments in case law.¹⁴²

On 22 December 2020, the Migration Court of Appeal issued a ruling concerning a 14 year old child born and raised in Sweden.¹⁴³ The Court found that her expulsion to **Lebanon** was in breach of the UN Convention on the Rights of the Child and that it was disproportionate given the child's strong connection to Sweden.

An issue that was raised in 2019 by the University of Uppsala with the assistance by the Swedish Refugee Law Center relates to the fact that the SMA has rejected asylum claims of female applicants in cases where they can rely on a 'male network' (i.e. male relatives such as brothers, the father, male relatives

¹³⁹ Information provided by the Migration Agency, August 2017.

¹⁴⁰ Migration Agency, *Kvalitetschefens instruktion om standard för dokumentation av särskilda behov*, I-78/2017, 25 September 2017.

¹⁴¹ FRA. *Migration Bulletin: Key Fundamental Rights Concerns*, November 2020, available at: <https://bit.ly/3cWUQBV>, 11.

¹⁴² Swedish Migration Agency, *Annual Report 2020*, Dnr: 1.3.2-2021-1600, 85.

¹⁴³ Migration Court of Appeal, Decision MIG 2020:24, 22 December 2020.

from the woman's husband etc.) in their respective home country. In such cases, the asylum claim may be rejected and women are subsequently deported to their country of origin. The authors concluded that relying on this so-called 'male network' in asylum assessments violates UNHCR guidelines and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). This issue was particularly criticised and reported in cases involving women from Afghanistan.¹⁴⁴

In 2019, the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) published its report on Sweden's implementation of the Istanbul Convention. One of the comments from the GREVIO refers to the Aliens Act which foresees that permanent residence shall be granted to the asylum seeker where the relationship has ended following violence on the alien or the alien's child or some other serious violation of their liberty or peace (Chapter 5 Section 16). However, there are some limitations on the definition regarding "violence" in practice. First, there is a focus on whether the relationship ended "primarily" due to violence and the relationship must be of a "serious, long term nature". Second, when referring to violence, the violence must be "serious" or consist of "repeated incidents of degrading treatment". In practice, a single incident of physical violence would not amount to the threshold required. Similarly, emotional, psychological financial abuse is not considered to reach the threshold of violence required in practice, according to information collected by women's organisations and the Swedish Migration Agency. GREVIO finds it worrying that there is a duration requirement of the relationship (which is not a requirement under the Istanbul Convention) and further criticises the narrow definition of "violence". As a result, women may be reluctant to end their relationship out of fear of not being believed or not meeting the "required" threshold of violence.¹⁴⁵

GREVIO further noted limitations regarding the gender-specific interviews with case manager, i.e. the difficulty to build trust and be able to tell traumatic experiences. Additionally, it was noted by GREVIO that women are unaware of the importance and relevance that their accounts of gender-based violence and persecution may have on the asylum procedure.¹⁴⁶ Sweden has received a total of 41 recommendations from GREVIO and shall report back to the Council on Europe on their implementation at the latest by January 2022.¹⁴⁷

In 2020, a total of 5,801 women applied for asylum and the recognition rate for women was 34%.¹⁴⁸

In November 2020, RFSL published a report¹⁴⁹ in which they had examined more than 2,000 asylum decisions from the Migration Agency and judgments from the Migration Courts in LGBTQI cases during the period 2012–2020. The report finds that a number of explicit requirements are put upon the asylum seeker by the migration authorities within the credibility assessments in LGBTQI cases and that the migration authorities have a number of preconceptions about and expectations on LGBTQI people, that have a great impact on whether or not asylum seekers are considered as having made their claims credible. According to the report, the migration authorities' requirements lack support in the Swedish Aliens Act and contravene the Migration Agency's judicial guidelines, UNHCR's guidelines, EU Directives and the European Court of Justice's case law.

2.2. Exemption from special procedures

When implementing the Asylum Procedures Directive, Sweden saw no need to change or modify existing legislation, due to the new Article 24 on applicants in need of special procedural guarantees, even though

¹⁴⁴ Emma Asplund and Sophie Sjöqvist (2019). *Manligt nätverk*, available in Swedish at: <https://bit.ly/3sYZ2WO>.

¹⁴⁵ GREVIO, *Baseline Evaluation Report: Sweden*, 21 January 2019, available at: <https://bit.ly/3riG6lu>, 57-58.

¹⁴⁶ GREVIO, *Baseline Evaluation Report: Sweden*, 21 January 2019, available at: <https://bit.ly/3riG6lu>; 59-61.

¹⁴⁷ Swedish Government, *Granskning av Sveriges arbete med att motverka våld mot kvinnor och våld i nära relationer*, 28 January 2019, available in Swedish at: <https://bit.ly/3ecChKy>.

¹⁴⁸ Swedish Migration Agency, *Annual Report of 2020*, p. 39.

¹⁴⁹ RFSL, *Avslagsmotiveringar i HBTQI-asylärenden*, available in Swedish, with a summary in English, here: <https://bit.ly/3fCSkIM>.

many authorities and organisations, including the Migration Agency, Swedish Red Cross and UNHCR, saw a need to do so.¹⁵⁰

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 child who has an unfounded claim and who can be accommodated in reception facilities in the country of origin.

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. The Migration Agency stated in a legal position that applicants who claim that they have been subject to torture or other ill-treatment amounting to a need for international protection and who present a certificate indicating that he/she has been subjected to such treatment shall, subject to certain exceptions, be further examined at the state's cost.¹⁵¹ The Migration Agency has a standard form for medical reports,¹⁵² but not specifically for medico-legal certificates. The latter usually follows the Istanbul Protocol.

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), 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.¹⁵³

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.¹⁵⁴

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 Migration Agency published guideline notes drafted by its Legal Unit, outlining when medical reports should be requested by the authority e.g. when there is evidence of torture.¹⁵⁵ These guidelines are still in place. They foresee that where asylum seekers invoke injuries resulting from having been subjected to torture

¹⁵⁰ 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>.

¹⁵¹ Migration Agency, Rättsligt ställningstagande, Medicinska utredningar av åberopade skador – RS/022/2021, available in Swedish at: <https://bit.ly/3fydJMX>.

¹⁵² Migration Agency, *Utlåtande från läkare vid provning av hälsotillstånd i ärenden om uppehållstillstånd eller verkställighetshinder*, available in Swedish at: <https://bit.ly/2GCAwFm>.

¹⁵³ ECtHR, *R.C. v. Sweden*, Application No 41827/07, 9 June 2010.

¹⁵⁴ Migration Court of Appeal, MIG 2014:21, UM3739-14, 23 September 2014, available at: <http://bit.ly/2jPcQ5f>.

¹⁵⁵ 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>.

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.

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, according to the Migration Agency's legal position¹⁵⁶. This can be done through specialist institutions and through the Swedish Red Cross Treatment Centre for persons affected by war and torture. The Swedish Red Cross has highlighted in a 2014 report the lack of access to proper investigation in situations where an asylum seeker claims he or she has been subject to torture.¹⁵⁷

As a consequence of the ECtHR ruling in *Paposhvili v Belgium*,¹⁵⁸ the Migration Agency has issued legal guidance on assessing medical grounds that can come within the scope of Article 3 ECHR. In its latest guidance on the matter, the Agency states that the expulsion of a foreigner suffering from a disease, in combination with the lack of adequate care in the home country, may in very specific cases be considered as inhuman and degrading treatment referred to in Article 3 ECHR.

- The standard of proof is high, it must be shown that the person is at a real risk of being subjected to such treatment. The applicant has the burden of proof that an expulsion leads to a treatment contrary to Article 3 ECHR.
- An overall assessment must be made. Factors that are important in the assessment are the state of health, the availability of adequate and appropriate care in the home country, the cost for the care, social networking and the general situation in the home country.
- If, even after investigation, there are still uncertainties about whether the applicant risks treatment in contravention of Article 3, the state must obtain individual and sufficient guarantees from the receiving state that appropriate treatment will be available to the person in question.
- The risk of being subject to treatment contrary to Article 3 ECHR should be assessed for children in the same way as for adults, taking into account the fact the concerned person is a child.¹⁵⁹

On 24 September 2020, the UN Committee on the Rights of Persons with Disabilities (CRPD) published its decision in a case litigated by the Swedish Refugee Law Center concerning the expulsion to **Iraq** of a woman suffering from severe depression.¹⁶⁰ The CRPD considered that the Swedish authorities should have assessed whether the woman would be able to access adequate medical care if removed to Iraq and found that Sweden had failed to fulfil its obligations under Article 15 of the Convention on the Rights of Persons with Disabilities.

¹⁵⁶ Migration Agency, Rättsligt ställningstagande, Medicinska utredningar av åberopade skador – RS/022/2021, available in Swedish at: <https://bit.ly/3fydJMX>.

¹⁵⁷ Swedish Red Cross, *Tortyrskador i asylprocessen under lupp. Hur värderas tortyrskador i den svenska asylprocessen*, 2014, available at: <https://bit.ly/3tZM9gd>.

¹⁵⁸ ECtHR, *Paposhvili v. Belgium*, Application No 41738/10, Judgment of 13 December 2016, EDAL, available at: <https://bit.ly/2UR2eXM>.

¹⁵⁹ Migration Agency, Rättsligt ställningstagande angående tillämpning av artikel 3 i Europakonventionen då sjukdom åberopas - RS/008/2020, 17 June 2020, available in Swedish at: <http://bit.ly/3kv4RrQ>.

¹⁶⁰ UN Committee on the Rights of Persons with Disabilities, *Decision on Communication no. 60/2019*, September 2020, available at: <https://bit.ly/3uPW3BM>, 24.

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 a specific law covering the duties of the guardian.¹⁶¹

There is no time limit for the appointment of a guardian. Guardians are reimbursed for their costs and also receive a nominal fee from municipalities. No requirements about 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 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.

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 despite the fact that the age assessment decision can be appealed and has therefore not gained legal force. In certain cases, courts have pointed out that this practice is not in line with legal principles. The Administrative Court of Gothenburg handed down a decision recognising that a child who had had his age adjusted to over 18 was still in the appeal procedure and that the decision on his age had not gained legal force. Therefore he should still have the right to a guardian during that period.¹⁶²

The number of unaccompanied minors seeking asylum has plummeted from around 34,000 in 2015 to 1,336 in 2017; further decreasing to 944 in 2018, 902 in 2019 and to 500 in 2020.

Unaccompanied asylum-seeking children: 2020	
Country of origin	Number of applicants
Syria	108
Afghanistan	85
Somalia	69
Morocco	62
Eritrea	25
Other	151
Total	500

Source: Swedish Migration Agency, *Inkomna ansökningar om asyl*, 2020, available in Swedish at: <https://bit.ly/2Pbuani>.

¹⁶¹ Lag (2005:429) om god man för ensamkommande barn, available at: <http://bit.ly/2CP4Pnq>.

¹⁶² Administrative Court of Gothenburg, Decision 4737-15, 28 June 2016.

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 Subject to decision by the Court
3. Is a removal order suspended during the examination of a second, third, subsequent application?
 - ❖ At first instance Depending on grounds raised
 - ❖ At the appeal stage Subject to decision by the Court

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,¹⁶³ or, if such a permit cannot be granted, lead to a re-examination of the initial case.¹⁶⁴

Under Chapter 12 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];¹⁶⁵
- (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.¹⁶⁶ Decisions made pursuant to this provision cannot be appealed before the Migration Court and are final.

Conversely, Chapter 12 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];¹⁶⁷ 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”.

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.

Much-needed guidance on the interpretation of the requirement of a valid reason was handed down by the Migration Court of Appeal on 10 April 2019.¹⁶⁸ The Court concluded that if it is considered that there

¹⁶³ Ch. 12, Section 18 Aliens Act.

¹⁶⁴ Ch. 12, Section 19 Aliens Act.

¹⁶⁵ Ch. 12, Sections 1-2 Aliens Act.

¹⁶⁶ Ch. 12, Section 18 Aliens Act.

¹⁶⁷ Ch. 12, Sections 1-2 Aliens Act.

¹⁶⁸ Migration Court of Appeal, UM 12194-18, MIG 2019:5, 10 April 2019, available at: <https://bit.ly/3rWG1DG>

are reasonable grounds to assume that a foreigner in the country to which expulsion has been ordered would be in danger of being punished with death or being subjected to corporal punishment, torture or other inhuman or degrading treatment or punishment, it is not required that the applicant shows a valid reason in order for a subsequent application to be admitted.

Where these two 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. However, the Migration Agency has no discretion to re-examine the application where these conditions are not met.¹⁶⁹

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 suspend the removal order must be made by the Court to prevent the expulsion order from being carried out in the meantime. However, the first time a decision not to grant a re-examination is appealed, the appeal has automatic suspensive effect until the court decides whether to suspend the removal order. However, a suspensive effect is granted to appeals against decisions to reject a subsequent application on the merits. An appeal must be lodged within the normal time limit of 3 weeks following receipt of the negative decision.

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 (see: [Regular procedure: Legal assistance](#)). 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. The Swedish Refugee Law Center provides legal assistance free of charge to persons seeking to submit a subsequent application for international protection. An application is submitted on behalf of the applicant in cases where it is assessed that there are reasonable prospects for a successful outcome. For more information please visit www.sweref.org.

In 2020, a total of 12,768 subsequent applications were submitted and the Migration Agency decided on 13,242 subsequent applications. Out of them, 798 subsequent applications were accepted, but a more detailed breakdown on type of decisions is not available. The main countries of origin of applicants lodging a subsequent application were **Afghanistan** (2,465); **Iraq** (1,972); stateless (621); **Iran** (483) and **Somalia** (325).¹⁷⁰

¹⁶⁹ Ch. 12, Section 19 Aliens Act.

¹⁷⁰ Information provided by the Migration Agency's statistics unit.

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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| ❖ Is the safe third country concept used in practice? | <input type="checkbox"/> Yes <input checked="" 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 recognition rates below 20%, and whose claims may be processed faster.

As Sweden has no list of safe countries of origin, the CJEU clarified in *A v Migrationsverket* in July 2018 that the Migration Agency cannot reject an application as manifestly unfounded on that basis (see [Accelerated Procedure](#)). On 19 June 2019, the government ordered an investigation regarding the possibility to introduce a list of safe countries of origin. A government memorandum was published on 30 January 2020, which outlined the legislative changes necessary to achieve that aim.¹⁷¹ The government has expressed as a goal to implement the required legislative changes during the fall of 2020. The Government has presented a law proposal introducing safe country of origin concept and giving the Migration Agency the possibility to develop list of safe countries. The law proposal, if adopted, would enter into force on 1 May 2021.¹⁷² The Swedish Migration Agency has suggested eight countries to be included to the list of “safe countries of origin”: **Albania, Bosnia and Herzegovina, Chile, Kosovo, Mongolia, North Macedonia, Serbia** and the **United States**.¹⁷³

2. Safe third country

The “safe third country” concept is a ground for inadmissibility in Sweden (see [Admissibility Procedure](#)). There is no list of safe third countries. However, following the large influx of arrivals in 2015, the (then) Swedish government publicly announced that it would be positive to the development of common standards within the EU to this regard. Practice shows that the safe third country concept is regularly applied by the Migration Agency.

2.1. Safety criteria

Chapter 5, Section 1b(3) of the Aliens Act 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.

¹⁷¹ Ministry of Justice and Migration, *Uppenbart ogrundade ansökningar och fastställande av säkra ursprungsländer* Ds 2020:2, 30 January 2020, available in Swedish at: <https://bit.ly/3b4MpkN>.

¹⁷² Swedish Government, *Uppenbart ogrundade ansökningar och fastställande av säkra ursprungsländer*, Prop. 2020/21:71, 17 December 2020, available in Swedish at: <https://bit.ly/3bBMn4R>.

¹⁷³ Swedish Migration Agency. Lista över säkra ursprungsländer skickas på remiss. Available in Swedish at: <https://bit.ly/3sNG0SZ>.

In a legal opinion issued in December 2018, the Migration Agency provides details on the application of the safe third country concept. The opinion details that the possibility to apply for refugee status in a third country should not only exist formally but also be observed in practice. Accordingly, the country must fulfil the requirements of a fair asylum system, effective remedies, and protection from removal where risks of *refoulement* are invoked, on the basis of available country information.¹⁷⁴

2.2. Connection criteria

Chapter 5, Section 1b(3) of the Aliens Act also requires a connection to the country concerned that makes it reasonable for him or her to travel there. An application may not be dismissed if:¹⁷⁵

- (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.

The legal opinion issued by the Migration Agency in December 2018 clarifies that, for the safe third country concept to be applied, the applicant must hold stronger ties to the third country concerned than to Sweden. Stay in the third country is not required.¹⁷⁶ Examples of reasonable connection include marriage with a citizen of the country.¹⁷⁷

3. First country of asylum

The concept of first country of asylum is a ground for inadmissibility (see [Admissibility Procedure](#)).¹⁷⁸ 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 a legal opinion issued in December 2018, the Migration Agency provides details on the application of the first country of asylum concept. It notes that refugee status in another country must be valid and that entry to that country is possible at the time the Agency takes a decision on the application in Sweden. More importantly, the Migration Agency considers that the requirement of protection from *refoulement* renders it difficult to apply the first country of asylum concept to statuses other than refugee status.¹⁷⁹

¹⁷⁴ Migration Agency, *Rättsligt ställningstagande angående avvisning av ansökan om uppehållstillstånd med stöd av 5 kap. 1 b § utlänningslagen*, 44/2018, 6 December 2018, available in Swedish at: <https://bit.ly/2L00rv8>, 7.

¹⁷⁵ Ch. 5, Section 1b(3) Aliens Act. See also Migration Court of Appeal, UM 3266-14, MIG 2015:12, 20 August 2015, available at: <https://bit.ly/2kbPW6A>.

¹⁷⁶ Migration Agency, *Rättsligt ställningstagande angående avvisning av ansökan om uppehållstillstånd med stöd av 5 kap. 1 b § utlänningslagen*, 44/2018, 6 December 2018, 7.

¹⁷⁷ Migration Court of Appeal, UM 8098-16, MIG 2017:13, 22 June 2017, available at: <https://bit.ly/2DwrZC6>.

¹⁷⁸ Ch. 5, Section 1b(2) Aliens Act.

¹⁷⁹ Migration Agency, *Rättsligt ställningstagande angående avvisning av ansökan om uppehållstillstånd med stöd av 5 kap. 1 b § utlänningslagen*, 44/2018, 6 December 2018, available in Swedish at: <https://bit.ly/2L00rv8>, 5 et seq.

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

1. Provision of information on the procedure

Indicators: Information on the Procedure

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

The official language of Sweden is Swedish and all official decisions and judgments are 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.¹⁸⁰ There is also information in around 25 languages available through the Migration Agency on various aspects of the asylum procedure. This information is available on the website,¹⁸¹ 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. Furthermore, there are videos providing information in sign languages. Also, 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.¹⁸² 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. Videos explaining various procedures has been produced by the Migration Agency in cooperation with NGOs. These videos are available in 7 to 12 languages including sign language and are accessible from the Migration Agency's website.¹⁸³ There is also written information in up to 25 languages corresponding to languages understood by the main nationalities of asylum seekers arriving in Sweden in recent years (Syria, Somalia, Eritrea, Kosovo, Afghanistan, Iraq, Albania, Serbia, Ukraine, Egypt, Pakistan, Mongolia, Russia, Georgia, Ukraine, Nigeria, Turkey, Ethiopia, Morocco, Azerbaijan and Iran).¹⁸⁴

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,¹⁸⁵ as well as on Dublin procedures followed after a country other than Sweden has been deemed responsible.¹⁸⁶ There is also a specific leaflet for unaccompanied minors regarding the Dublin Regulation, as per Article 4(3) of the Dublin III Regulation.¹⁸⁷

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 currently 39 reception

¹⁸⁰ Section 2a Ordinance on the reception of asylum seekers.

¹⁸¹ Migration Agency, *Protection and Asylum in Sweden*, available at: <http://bit.ly/1sHzLfA>.

¹⁸² Migration Agency, *For Children*, available at: <http://bit.ly/1Feg3vm>.

¹⁸³ Migration Agency, *Alla filmer på alla språk*, available at: <https://bit.ly/2W4Axay>.

¹⁸⁴ Migration Agency, *Other languages*, available at: <https://bit.ly/2vkhMnH>.

¹⁸⁵ Migration Agency, *"I have asked for asylum in the EU – which country will handle my claim?"*, available at: <http://bit.ly/1PSuhgz>.

¹⁸⁶ Migration Agency, *"I am in the Dublin procedure – what does this mean?"*, available at: <http://bit.ly/1LRjmgH>.

¹⁸⁷ Migration Agency, *Children asking for international protection - Information for unaccompanied children who are applying for international protection pursuant to article 4 of Regulation (EU) No 604/2013*, available at: <https://bit.ly/3cIm8eS>. See also information on the Dublin procedure on the website of the Swedish Refugee Law Centre for adults here: <https://bit.ly/3wS9y4Y>; and for children here: <https://bit.ly/2QnNGNL>. Both websites are available in many languages.

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 152-page booklet entitled *Goda Råd* (Good Advice), updated in August 2019, available in several languages.¹⁸⁸ 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 Advice 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 migration issues on its website under the heading [Support Migration](#), currently only in Swedish.

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 counsels also have an obligation to provide information on the asylum procedures to the client. A number of NGOs visit detention centres on a regular basis and are involved in a dialogue with the Migration Agency regarding the scope and routines for offering this service.

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. It should be further noted that in 2020 the Migration Agency produced specific materials to inform asylum seekers about the impact of COVID-19 on the asylum procedure.¹⁸⁹

2. Access to NGOs and UNHCR

Indicators: Access to NGOs and UNHCR

1. Do asylum seekers located at the border have effective access to NGOs and UNHCR if they wish so in practice? ☐ Yes ☒ With difficulty ☐ No
2. Do asylum seekers in detention centres have effective access to NGOs and UNHCR if they wish so in practice? ☒ Yes ☐ With difficulty ☐ No
3. 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 [Swedish Red Cross](#) offers information and legal advice support on asylum and family reunification cases through a free-of-charge number (020-415 000). If deemed a prioritised case, applicants can book an appointment to see a case worker or a lawyer. Swedish Red Cross lawyers, based in **Stockholm**, **Malmö** and **Gothenburg**, sometimes act as legal counsel, mostly in cases within Red Cross prioritised areas such as family reunification, need of protection due to risk of torture or gender persecution.

The [Swedish Refugee Law Center](#) provides advice and individual case support in asylum and family reunification cases. This includes legal advice through a free-of-charge number (0200-88 00 66), email (info@sweref.org) and via their website, acting as legal counsels in proceedings at the Migration Agency, the Migration Courts and in international processes. The Swedish Refugee Law Center also has a specific support for children with a dedicated free-of-charge number (0200-75 17 03) and email (barn@sweref.org). Other NGOs offering advice and support to asylum-seekers include [Amnesty International](#) and [Caritas Sweden](#).

¹⁸⁸ FARR, *Good Advice for Asylum Seekers in Sweden*, August 2019, available in English at: <https://bit.ly/3rH04FN>. Other languages available at: <https://bit.ly/3mmMBSF>.

¹⁸⁹ Migration Agency, *Information for those seeking asylum in Sweden after 6 February*, available here: <https://bit.ly/3bPzioz>.

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 children have also organised themselves in two different associations which provide advice and support to newly arrived unaccompanied children.¹⁹⁰ A third organisation called **Ung i Sverige** (Young in Sweden) was formed in 2017 which organised a series of protests and sit-ins in central areas of **Stockholm** against deportations to Afghanistan but also raised other issues relevant to the situation of unaccompanied children such as finding appropriate housing for young asylum applicants who were judged as being over 18 and forced out of their accommodation to live in a town very distant from their current school. The spokesperson for this movement, a young Afghan woman named Fatemeh Khavari, has received a number of awards for her courage and leadership.

UNHCR has an office in **Stockholm**, covering the Nordics and the Baltics. UNHCR's operations in Sweden are primarily focused on advocacy and capacity building efforts.

H. 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?¹⁹¹ ☐ Yes ☒ No
❖ If yes, specify which:

Sweden is one of the main destinations of Syrian asylum seekers. In 2020, out of a total of 12,991, 1,208 came from **Syria**; 401 from **Georgia**; 782 from **Iraq**; 526 from **Eritrea**; 375 were **stateless**, 593 from **Afghanistan** and 443 from **Somalia**.¹⁹² The recognition rate at first instance, in cases tried on the merits, was 29% in 2020, down from 35% in 2019 and 39% in 2018.

At first instance, the recognition rates in cases tried on the merits in 2020 significantly decreased compared to 2019 as follows: 76% (1,422) for **Syrians**, down from 97% in 2019; 78% (454) for **Eritreans**, down from 91% in 2019; 46% (366) for **Afghans**, up from 45% in 2019; 41% (236) for **stateless persons**, down from 60% in 2019; 41% (222) for **Somalians**, down from 47% in 2019; and 28% for **Iranians**, down from 38% in 2019.¹⁹³ As regards second instance, the Migration Courts approved 7% of appeals in 2020, compared to 17% of appeals in 2019.¹⁹⁴ The high rate in 2019 was mainly due to an extended possibility to be granted a residence permit to study in upper secondary school.¹⁹⁵

The significant decrease in recognition rate for **Syrians** mentioned above is the result in a change in the Migration Agency's assessment of the security situation in the country. The Migration Agency currently considers that the security situation in the internal armed conflict is not such that each and everyone is in need of international protection in accordance with Article 15(c) of the Qualifications Directive in several provinces, and that an individual assessment of the applicant's risk therefore must be made. However, the Migration Agency considers that the improved security situation is not such that it can be considered as significant and non-temporary in nature in the context of cessation.¹⁹⁶

¹⁹⁰ <http://www.sef-riks.se/> and <http://ensamkommandesforbund.se/>.

¹⁹¹ Whether under the "safe country of origin" concept or otherwise.

¹⁹² Migration Agency, *Monthly statistical report for December 2020*, p. 9.

¹⁹³ Migration Agency, *Monthly statistical report for December 2020*, p. 9.

¹⁹⁴ Swedish Migration Agency. Annual Report 2020, p. 81.

¹⁹⁵ Swedish Migration Agency. Annual Report 2020, p. 81.

¹⁹⁶ Migration Agency, *Rättsligt ställningstagande – Prövningen av skyddsbehov för personer från Syrien, RS/022/2020 (ersätter SR06/2020)*, available in Swedish at: <https://bit.ly/3fBPtte>.

Applicants from countries with a recognition rate below 20% have their cases treated under the accelerated procedure (“Track 4B”) even if they are individually assessed. The countries currently listed are: Albania, Armenia, Azerbaijan, Belarus, Bosnia and Herzegovina, Colombia, Côte d'Ivoire, Cuba, Egypt, El Salvador, Georgia, Kazakhstan, Kyrgyzstan, Kosovo, North Macedonia, Morocco, Moldavia, Mongolia, Montenegro, Serbia, Tunisia, Ukraine and Vietnam (see section on [Accelerated Procedure](#)).

Reception Conditions

Short overview of the reception system

In Sweden, the Swedish Migration Agency is responsible for the reception of asylum seekers. It provides temporary accommodation while awaiting the decision on the application for international protection. The SMA will cover the costs of accommodation if the applicant does not have enough resources. The applicant is free to choose and arrange its own accommodation if he or she does not wish to stay with the SMA. As regards unaccompanied minors, they will be channelled to a local municipality which is then responsible for the reception of the minor.

The right to accommodation starts as soon as an application for international protection is made. If an asylum seeker has been living in accommodation provided by the Swedish Migration Agency, then the Swedish Migration Agency can help him/her to secure housing once they have received a residence permit. The right to accommodation ends once the applicant has received a notice of rejection of the application for international protection, a deportation order, or if the deadline for voluntarily departure has expired. This applies to all adults and persons not living with underaged children. Families with children and unaccompanied children may however continue to live in the temporary accommodations by the SMA and to benefit from the right to financial support until they leave Sweden or if they have deregistered from the reception system. Also, if an applicant applies for a work permit after the rejection of his asylum claim has become effective, he or she will be deregistered from the reception system and will no longer be entitled to financial support nor accommodations. This also applies to the family members who have jointly applied for a residence permit. As for beneficiaries of international protection who are granted a protection status by the SMA and who do not secure housing for themselves, they will be referred to a municipality who will then become responsible for arranging housing. The municipality becomes responsible two months at the latest after it has been designated and the beneficiary can remain in the SMA reception center until the responsibility has transferred to the municipality. However, if the beneficiary declines the offer of moving to the designated municipality the beneficiary must immediately arrange for his/her own housing.¹⁹⁷

The SMA reception centres are mostly shared flats. Families are always given a room on their own. Single people must share a room with others of the same sex. For applicant with special needs, the SMA will try to arrange a living situation adapted to their situation.¹⁹⁸

A. Access and forms of reception conditions

1. Criteria and restrictions to access reception conditions

Indicators: Criteria and Restrictions to Reception Conditions

1. 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
❖ Admissibility procedure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Accelerated 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
2. 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
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¹⁹⁷ Migration Agency, *Bosättning i en kommun*, available in Swedish at: <https://bit.ly/3dz7Exd>.

¹⁹⁸ See also: Migration Agency, *Accommodation*, available at: <https://bit.ly/3asgrQ2>.

In Sweden, all asylum applicants have access to the benefits of the reception system, granting them the possibility to access housing and a daily allowance. An exception applies to certain applicants since 2016 (e.g. persons subject to a deportation order etc.), as is explained further below. If they have resources, they are required to use these first, as the provision of reception conditions is conditional upon a lack of sufficient resources. Upon the lodging of the asylum application, the Migration Agency reception officer enquires about the applicant's financial situation.¹⁹⁹

Daily allowance should only be paid to a foreigner who does not have sufficient funds. An individual assessment must be made. If applicants have or obtain access to cash, bank deposits, or other assets that are easily converted into cash and cash equivalents, they must primarily use these for their livelihood. The applicants ability to use any assets that exist in another country for their daily life should also be taken into account. Such an individual needs test is a prerequisite for the application of the provisions on reduction of the daily allowance.²⁰⁰

Following an amendment to the Reception of Asylum Seekers Act (LMA) introduced in 2016 some applicants no longer have the right to reception conditions. Applicants who have received a decision on refusal of entry or deportation which can no longer be appealed, or whose period for voluntary return has ended, lose their right to reception conditions i.e. the right to a daily allowance and accommodation provided by the Migration Agency. If they refuse to leave their accommodation at that point, they may be forcibly removed and be subject to criminal sanctions.²⁰¹ Consequently, many persons in this situation are left destitute and homeless or reliant on support from individuals or civil society organisations. In cases where it is considered "obviously unreasonable" to cease the right to reception conditions, the right to such conditions will not cease and particularly vulnerable persons can therefore be exempted.²⁰²

Restricted access to reception conditions are also applied to subsequent applicants. Subsequent applicants who are adults are not able to get subsidised health care or medicines. Although they always have the right to emergency health care (health care that cannot be deferred, maternal healthcare, healthcare related to abortion and health care in relation to contraception).²⁰³ If subsequent applicants are comprised of a family with children, they are entitled to a reduced allowance as adults but standard allowance for children and have a right to accommodation. These restrictive changes have led to criticism from civil society, as organisations such as the Red Cross have pointed out that the reform has led more people to turn to civil society organisations to ask for assistance with accommodation, food and health care.²⁰⁴

In 2020, access to reception was not restricted as a result of COVID-19. The Migration Agency maintained the possibility to apply for asylum and subsequently to access the reception system. Moreover in 2020, new rules have been implemented for asylum-seekers who choose to settle in so-called socio-economically challenged areas. The rules foresee that these persons are no longer entitled to a daily allowance.²⁰⁵ The aim with this measure is to combat segregation and encourage more asylum-seekers to settle in areas with better prospects. Municipalities could report if certain areas or the whole municipality was "socio-economically" challenged. The government decided that the Country Administrative Boards

¹⁹⁹ Section 17, Law on Reception of Asylum Seekers and Others, 1994:137.

²⁰⁰ Section 15, Law on Reception of Asylum Seekers and Others, 1994:137.

²⁰¹ Sections 11-12a, Law on Reception of Asylum Seekers and Others, 1994:137.

²⁰² Sections 11, Law on Reception of Asylum Seekers and Others, 1994:137.

²⁰³ Section 7, Law (2013: 407) on health care for certain foreigners staying in Sweden without the necessary permits (Lag (2013:407) om hälso- och sjukvård till vissa utlänningar som vistas i Sverige utan nödvändiga tillstånd).

²⁰⁴ Sections 11-12a, Law on Reception of Asylum Seekers and Others, 1994:137. Swedish Red Cross, *Consequences of the amendment to Sweden's Reception of Asylum Seekers Act*, 2016, available in Swedish at: <http://bit.ly/2Fw1wr7>; VSIU, *Report about Legal Uncertainties in the Asylum Process For Unaccompanied Minors in Sweden*, 26 February 2018, available at: <http://bit.ly/2FEuiD2>; *Rapport om rättsosäkerhet i asylprocessen för ensamkommande barn och unga*, September 2017, available in Swedish at: <http://bit.ly/2C5QySC>.

²⁰⁵ Section 10a, Law on Reception of Asylum Seekers and Others, 1994:137

shall decide which areas may be considered as “socio-economically challenged”.²⁰⁶ As of the end of 2020, a total of 11 municipalities reported that their municipality was facing socio-economic challenges. However, the legislation covers 32 municipalities.²⁰⁷

Recent reports from the Swedish Migration Agency indicate that this legislative change did not result in a change of practice yet, as asylum seekers continue to settle in “socio-economically challenged areas”. Between the 1 July and 30 December of 2020, 2,195 asylum seekers settled in such areas.²⁰⁸

2. Forms and levels of material reception conditions

Indicators: Forms and Levels of Material Reception Conditions

1. Amount of the monthly financial allowance/vouchers granted to single adult asylum seekers as of 31 December 2020 (in original currency and in €): 2,130 SEK / €210.05

Housing

Housing offered by the Migration Agency is either in an apartment, in a normal housing area or at a reception centre, although ordinary apartments is usually the Migration Agency’s primary option for accommodating asylum seekers.²⁰⁹ 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. There are differences in the way material reception conditions are provided depending on the procedure (“track”) in which asylum seekers are in. For applicants in the **Dublin** procedure (“Track 5A”) and the **Accelerated Procedure** (“Track 4”), for example, accommodation is located close to airports, with the aim of speeding up potential removal from Sweden.

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 so and the recalcitrant ones have been chastised in some contexts. The government is 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 yet, however the reception of asylum seekers granted permission to stay has been made mandatory by law in all municipalities.²¹⁰ As reported by the Fundamental Rights Agency (FRA), the Migration Agency has together with the Swedish Public Employment Service, the County Administrative Boards, the National Board of Health and Welfare, the Swedish Association of Local Authorities and Regions proposed a proposition for future distribution of newly arrived person among regions and municipalities.²¹¹ Newly arrived persons in this case refers to new beneficiaries of international protection.

If asylum seekers have their own resources, 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.

²⁰⁶ Regeringskansliet. Regeringen beslutar om nya regler för att motverka att områden utan sociala och ekonomiska utmaningar undantas ebo-lagstiftningen. Available at: <https://bit.ly/3ay9WuQ>.

²⁰⁷ Migration Agency. Nu finns Reception of Asylum Seekers and Others, 1994:137.

²⁰⁸ Section 15, Law on Reception of Asylum Seekers and Others, 1994:137den första förteckningen över områden som omfattas av nya EBO-regler. Available at: <https://bit.ly/3jf4aIG>.

²⁰⁹ SVT, *Migrationsverket ser ingen tydlig effekt av nya ebo-lagen*, available in Swedish at: <https://bit.ly/3k1cCW7>.

²¹⁰ Migration Agency, Housing for asylum-seekers, available in Swedish at: <https://bit.ly/3fquSpf>.

²¹¹ Lag (2016:38) om mottagande av vissa nyanlända invandrare för bosättning, Official Journal 2016:38.

²¹¹ Migration Agency. *Förslag om nästa års länstal för nyanlända och andelar ensamkommande asylsökande barn*, 17 August 2020, available in Swedish at: <https://bit.ly/3ay5LPA>.

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 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 per day for 2020 are as follows: ²¹²

Category of applicant	Allowance in accommodation centres with food provided	Allowance in private accommodation
Single adult	24 SEK / €2.37	71 SEK / €7
Adults sharing accommodation	19 SEK / €1.87 per person	61 SEK / €6.02 per person
Child aged 0-3	12 SEK / €1.18	37 SEK / €3.65
Child aged 4-10	12 SEK / €1.18	43 SEK / €4.24
Child aged 11-17	12 SEK / €1.18	50 SEK / €4.93

Source: Migration Agency.

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 nothing has changed.

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.

It is noted that the allowance for asylum seekers is considerably lower than the allowance for Swedish nationals in need 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 2021 illustrates this difference:

Category	Asylum seekers	Settled persons on social welfare ²¹³
Single adult	2,130 SEK / €210.03	4,180 SEK / €407.35
2 adults	3,660 SEK / € 360.90	6,830 SEK / €665.60
1 adult 1 child (aged 2)	3,240 SEK / €319.48	6,730 SEK / €655.85

²¹² Migration Agency, *Financial support for asylum seekers*, available in Swedish at: <https://bit.ly/2O4bepZ>.

²¹³ National Board on Health and Welfare, *Provberäkning ekonomiskt bistånd*, available in Swedish at: <https://bit.ly/3ubuNMO>.

1 adult 2 children (aged 2-5)	4,530 SEK / €446.70	9,460 SEK / €921.90
2 adults 2 children (aged 5-12)	6,160 SEK / €607.44	13,270 SEK / €1,293.19
2 adults 3 children (aged 2-5-12)	7,020 SEK / €692.24	15,960 SEK / €1,555.34
2 adults 4 children (aged 12-14-15-17)	8,160 SEK / €804.69	22,780 SEK / €2,219.96

Sources: National Social Welfare Board, 1 January 2021; 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), asylum seeker's allowance can be reduced for adults if they refuse to cooperate in the asylum procedure or refuse to abide with an expulsion order.²¹⁴ A 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. The restriction of material reception conditions is not applied to children, however.

Asylum seekers have the right to appeal these decisions to the Administrative Courts, 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](#). Persons that were not returned or deported from Sweden can thus end up living with such a low allowance for many years.

According to the LMA the right to financial assistance ceases when there is a deportation decision that is legally enforceable and when the time limit for voluntary departure (which is usually four weeks) has expired.²¹⁵ In 2020, there were 6,594 persons with legally enforceable removal orders registered with the Migration Agency and who had not absconded in this situation.²¹⁶ They also lose the right to work after a final decision is taken on their case. However, according to Section 11 LMA, if a deportation decision is not practically enforceable and the applicant has cooperated to the furthest extent possible, then there could be an exemption from the removal of aid. This always applies if there are minor children in the household but the level of support for the adults is in any case also when such exemption is granted, reduced from 61 SEK/6.02 EUR a day to 42 SEK/4.15 EUR. However, if the family goes into hiding or leaves the reception system then no allowance is paid.

As stated above, a decision by the Migration Agency to cease aid may be appealed to the Administrative Court.²¹⁷ An appeal must be submitted no later than three weeks after that the person concerned was notified of the decision. In June 2017 the Supreme Administrative Court (*Högsta Förvaltningsdomstolen*), decided that a rejected asylum seeker who is absent or not cooperating to follow an removal decision falls under the scope of the LMA-regime and therefore does not have the right to any social- or emergency aid according to the Social Services Act. According to the Court this applies even though the person is not entitled to any aid according to LMA. Bearing in mind that it is very hard to be considered as cooperating in the enforcement of a removal decision, the 'cooperation criteria' basically excludes all absconded families from any social aid.²¹⁸

²¹⁴ Section 10, Law on Reception of Asylum Seekers and Others, 1994:137.

²¹⁵ Section 11, Law on Reception of Asylum Seekers and Others, 1994:137.

²¹⁶ Migration Agency, *Monthly statistical report for December 2020, including year-end numbers*, DNR: 1.1.1.2-2020-143, 21

²¹⁷ Section 22, Law on Reception of Asylum Seekers and Others, 1994:137.

²¹⁸ Högsta Förvaltningsdomstolens Dom, Decision 1527–1529-16, 5 June 2017, available in Swedish at: <http://bit.ly/2Ts9HD>.

In June 2018, the Supreme Administrative Court decided on social aid for an irregularly residing migrant who had never been subject to the LMA regime. In this case, according to the court, applicants in an irregular situation have the right to emergency aid, and in extraordinary situations the aid can even exceed that threshold. In this case, such an extraordinary situation applied as the applicant could not be deported because he was subject to forensic psychiatric care, a penalty due to criminal activity. Since deportation was not an option under these circumstances this led the court to conclude that the applicant should be treated in the same way as applicants who had been granted residence permits with regard to the Social service Act.²¹⁹

In a judgment of 2019 concerning an adult Bidoon from Kuwait, the Administrative Court of Appeal of Stockholm stated that the applicant had not taken sufficient initiatives to try and leave Sweden for example by obtaining a certificate from the Kuwaiti authorities stating he would not be admitted to Kuwait. His appeal concerning the right to remuneration and housing was therefore denied.²²⁰

At the time of writing of this report, there was another case pending before the Supreme Administrative Court. The Court has to clarify whether a refusal to cooperate to leave the country is an act falling within the scope of Section 10 of the LMA, which states that aid can be reduced if a person without a valid reason refuses to cooperate to an action necessary in the process of enforcing a removal decision.²²¹

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. The assignment to a place of residence is not made on the basis of a formal administrative decision.

A law was introduced in 2016 so that all municipalities would have to accept persons living in Migration Agency accommodation who have a residence permit.²²² All municipalities are also obliged to house unaccompanied children. 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 in 2015 and early 2016 and who have a right to education.

Asylum seekers are in many cases forced to relocate to reception centres in other cities, not without protests in some cases when people are uprooted once again after settling in a community.²²³

It should be noted that in 2020, no particular restrictions were applied to asylum seekers in the context of COVID-19. They could thus move freely across Swedish territory and were subject to the same measures as Swedish citizens in this regard.

²¹⁹ Högsta Förvaltningsdomstolens Dom, Decision 4464-17 and 6418-17, 11 June 2018, available in Swedish at: <http://bit.ly/2JBZk3P>.

²²⁰ Administrative Court of Appeal of Stockholm, UM 4419-19.

²²¹ Supreme Administrative Court, Case 4234-20.

²²² Lag (2016:38) om mottagande av vissa nyanlända invandrare för bosättning, Official Journal 2016:38.

²²³ Mitti Hela Stockholm, 'Barn demonstrerar för att få stanna i Täby', 13 June 2017, available in Swedish at: <http://bit.ly/2GikzBG>.

B. Housing

1. Types of accommodation

Indicators: Types of Accommodation²²⁴

1. Number of municipalities with reception centres:²²⁵ Not available
2. Total number of places in reception centres: 20,575
3. Total number of persons in reception centres: 14,442
4. Total number of persons in private accommodation: 20,176
5. Total number of persons in other forms of accommodation:²²⁶ 1,011
6. Type of accommodation most frequently used in a regular procedure:
☒ Reception centre ☐ Hotel or hostel ☐ Emergency shelter ☒ Private housing ☐ Other
7. 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 total number of asylum seekers registered in the reception system at the end of 2020 was 30,634 (down from 40,312 in 2019), of which 12,080 were living in Migration Agency accommodation, 17,727 in private accommodation and 827 in other forms of accommodation.²²⁷

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.

The continuing drop of asylum seekers in the reception system has led to reductions in the number of places in Migration Agency accommodation. This number has been steadily reduced over the past years: from 37,292 in 2018, to 24,844 in 2019 and to 20,575 in 2020.²²⁸ In 2020, several stakeholders such as Save the Children and the Swedish Church reports warned, however, that the shutting down of reception capacity fails to take into consideration the best interests of children. As a result, children are forced to move and enter new schools which adds obstacles to their education.²²⁹

The Migration Agency also operates “departure centres” for persons who have agreed to voluntary departure to the home country or Dublin cases. In 2020, the return process was adjusted so that rejected asylum seekers could move to a departure centre at an earlier point. However, the Covid-19 situation made it difficult to apply this.²³⁰

²²⁴ Average numbers for 2020, Migration Agency, *Annual Report 2020*, available in Swedish at: <https://bit.ly/2Ngcrum>, 51.

²²⁵ Both permanent and for first arrivals. This refers to the number of municipalities where the Migration Agency rents flats or other accommodation.

²²⁶ This includes privately placed unaccompanied minors, youth in care arrangements, persons in criminal detention and others.

²²⁷ Migration Agency, *Monthly Statistical Report*, December 2020.

²²⁸ Migration Agency, *Annual Report 2020*, p. 52, available in Swedish at: <https://bit.ly/2Ngcrum>.

²²⁹ FRA. *Migration: Key Fundamental Rights Concerns. Quarterly Bulletin*, November 2020, available at: <https://bit.ly/36BeJug>, 30

²³⁰ Migration Agency, *Annual Report 2020*, available in Swedish at: <https://bit.ly/2Ngcrum>, 48.

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? 972 days²³¹
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 entities. 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 supervising the accommodation of asylum seekers in ordinary flats in regular residential areas and to assist asylum seekers accordingly. The ordinary rules for the number of persons per room do not apply to asylum seekers, meaning that more people can live in a 3-room flat than is regularly the case when municipal authorities designate accommodation for citizens.

In a report investigating crimes in asylum reception centres in 2018, the Swedish National Council for Crime Prevention reported that several crimes have been committed. The most common crimes were assault (21%), vandalism (19%) and drug offences (14%). Most of the assault committed concerned incidents between residents at the facilities (80%) and mostly involved men. The report indicates that mental illness issues and overcrowding are risk factors which contributed to increasing such incidents. The report also notes that there are only a few collective accommodations designed for women. It further highlights that many crimes or incidents go unreported as a result of fear, a lack of trust in authorities, or the fear to jeopardize their asylum process.²³² In 2020, the Swedish Church also reported that women are especially vulnerable and subjected to sexual harassment and assault.²³³

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 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. However, in 2020, leisure activities for asylum seekers, as for the population in general, were affected as a result of Covid-19 and many activities had to be suspended, moved outdoors or reduce the number of participants.

Since 1 February 2017, the Migration Agency is no longer responsible for organising meaningful activities for asylum seekers. This has been handed over to the County administration authorities (*länsstyrelserna*) who are responsible for this task, in cooperation with civil society. Early intervention regarding asylum seekers involves providing activities to men and women who are seeking asylum or who have a residence permit but still live in the Migration Agency accommodation. The aim of such measures is to accelerate the integration process while the decision on the asylum claim is pending. It includes courses on the Swedish language, Swedish society and the Swedish labour market and health system.

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

²³¹ Migration Agency, *Monthly statistical report for December 2020*, including year-end numbers, 26.

²³² BRÅ, Brott och brottsutsatthet på kollektiva asylboenden under 2018, available at: <https://bit.ly/39KzXbc>.

²³³ FRA, *Migration: Key Fundamental Rights Concerns. Quartely Bulletin*, November 2020, available at: <https://bit.ly/36BeJug>, 27.

Average duration of stay in reception system: 2020	
Category of applicant	Average stay (days)
Persons returning voluntarily	722
Persons forcibly removed	1,127
Persons absconding	1,072
Persons granted permits referred to municipalities	757
Persons granted permits arranging other accommodation	914
Total average	901

Source: Migration Agency, *Monthly Statistical Report*, December 2020.

C. Employment and education

1. Access to the labour market

Indicators: Access to the Labour Market

- 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
- Does the law allow access to employment only following a labour market test? ☐ Yes ☒ No
- Does the law only allow asylum seekers to work in specific sectors? ☒ Yes ☐ No
❖ If yes, specify which sectors
Unskilled sector
- Does the law limit asylum seekers' employment to a maximum working time? ☐ Yes ☒ No
❖ If yes, specify the number of days per year
- Are there restrictions to accessing employment in practice? ☒ Yes ☐ No

Asylum seekers are exempted from the requirement to have a work permit provided that they can provide identity documents or other means to establish their identity, that Sweden is responsible for their asylum application and that there are solid reasons for their application in Sweden. An asylum seeker will not be able to work in Sweden if he or she has received a refusal of entry decision with immediate effect, including if he or she falls within a Dublin procedure or has a claim considered manifestly unfounded.

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 suspended.²³⁴

In 2020, 9,527 asylum-seekers were granted the right to seek work.²³⁵

The Migration Agency no longer administers work experience opportunities for asylum seekers as from 1 January 2017. Concern has been raised *inter alia* by the Swedish Association of Local Authorities and Regions (*Sveriges Kommuner och Regioner*, SKR) about the fact that employers having the opportunity

²³⁴ Migration Agency, *Handbok i Migrationsrätt*, section AT-UND, 5.

²³⁵ Information provided by the Swedish Migration Agency.

to offer internships and work experience will have no authority as counterpart.²³⁶ However, the right to work remains for those granted permission to do so. A few municipalities have offered to pay the work insurance that the Migration Agency previously paid in order to facilitate entry to the labour market in cases where an asylum seeker has been able to secure a job offer or work experience placement. However, the main 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 6,8% in 2019.²³⁷ The situation did not improve in 2020, as the general unemployment rate further increased to 8.3%.²³⁸

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 their status as asylum seeker to becoming a “labour market migrant” if they manage to work 4 months before the decision to reject their asylum application becomes final. 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 from the date on which the decision to reject their asylum application became final. A successful applicant must have a valid passport and will receive a temporary permit of at least 1 year and at most 2, which can be renewed. After 4 years on temporary permits, a person who still has a job can then apply for a permanent residence permit, provided he or she has sufficient means to support and accommodate his or her family. These temporary permits allow for family reunification and the right of the spouse to work but do not require sufficient income to support and accommodate the family.²³⁹

The ability to switch status as an asylum seeker to a labour migrant was introduced in 2008 by the 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? ☒ Yes ☐ No
2. Are children able to access education in practice? ☒ Yes ☐ No

Asylum seeking children have full access to the Swedish school system and they are to a great extent integrated in regular schools. They are not covered by the law obliging children between the ages of 6 and 16 to attend school but have the right to attend, if they so wish. The right to go to school has also been confirmed in law for those children still present in Sweden with an expulsion order and who have absconded with their parents.²⁴⁰

Children between 16 and 18 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

²³⁶ SKL, ‘Migrationsverkets ansvar för praktik för asylsökande upphör’, 21 December 2016, available in Swedish at: <http://bit.ly/2FBUIde>.

²³⁷ The Government Agency Statistics Sweden, available in Swedish at: <http://bit.ly/2v5GWdu>.

²³⁸ SCB, *Arbetslöshet i Sverige*, available in Swedish at: <https://bit.ly/3toSBwX>.

²³⁹ Chapter 5 Section 15 a Aliens Act, Chapter 4 Section 4 a Aliens Ordinance.

²⁴⁰ Swedish Parliament, *Betänkande 2012/13:UbU12 Utbildning för barn som vistas i landet utan tillstånd*, available at: <http://bit.ly/1GfU4uO>.

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 later, they will be allowed to continue their course. However, persons who are over 18 upon arrival in Sweden have no right to access secondary education. This being said, there is nothing that officially restricts or stops municipalities from offering secondary education if they have the possibility to enrol more students.²⁴¹

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 mother tongue teachers are employed for that purpose.

With entry into force of the temporary law in 2016, access to upper secondary school education was restricted. Nevertheless, following amendments to the law that entered into force in June 2017 and again in July 2018, there are possibilities to get a residence permit allowing applicants to continue their studies.²⁴² There are many factors that may affect whether the person may get a residence permit for upper secondary education studies. The rules are different for asylum seekers and for people with a temporary residence permit that they wish to extend. The rules also vary depending on whether the person is an unaccompanied child, whether he or she is studying on a national program or on an induction programme, and in some cases on the date the first application for asylum was received, the duration of the processing time of the asylum application at first instance and whether the asylum seeker was considered to be an adult or a child at the date of the first instance decision.

The duration of the residence permit depends *inter alia* on the length of the course and whether it is a national or induction programme. A residence permit can be granted for 4 years or 13 months. The applicant can also get a residence permit that is valid for 6 months after the course is completed. The amendment is not only applicable to unaccompanied children; young persons coming to Sweden together with their families may also apply for a residence permit on the grounds of their upper secondary school studies. It also applies to people over the age of 18 but under 25.²⁴³

There have been criticisms pointing out that very few people match all criteria to be granted residence permit on this ground.²⁴⁴ On 1 July 2018, a new legislation was introduced which made it easier to be granted residence permit to finish secondary education for persons who: (i) had applied for asylum before 24 November 2015, (ii) had been considered as minors when applying for asylum, (iii) had a processing time of at least 15 months at first instance and (iv) had turned 18 when the expulsion decision was ordered.²⁴⁵ By August 2019, 7,303 persons have been granted residence permits based on this provision.²⁴⁶

No particular issues were reported regarding the access to education during COVID-19 as schools remained open, although some teaching classes were also organised remotely.

²⁴¹ Skolverket, *Nyanländas rätt till utbildning*, available in Swedish at: <https://bit.ly/39JXuZK>.

²⁴² Migration Agency, 'Frågor och svar om uppehållstillstånd för gymnasie studier', available in Swedish at: <https://bit.ly/2GnP211>.

²⁴³ Swedish Refugee Law Center, *Kan jag få uppehållstillstånd enligt gymnasielagen*, available in Swedish at: <https://bit.ly/3ufHZQW>.

²⁴⁴ Swedish Television, 'Migrationsverket: "Gymnasielagen ingen räddning', 6 October 2017, available in Swedish at: <http://bit.ly/2GpkjBC>.

²⁴⁵ Section 16 f, Law on temporary limitations to the possibility of being granted a residence permit in Sweden.

²⁴⁶ Swedish Red Cross, *Mitt liv räknas*, February 2020, available in Swedish at: <https://bit.ly/2A8rFdX>.

D. Health care

Indicators: Health Care

1. Is access to emergency healthcare for asylum seekers guaranteed in national legislation?
☒ Yes ☐ No
2. Do asylum seekers have adequate access to health care in practice?
☐ Yes ☒ Limited ☐ No
3. Is specialised treatment for victims of torture or traumatised asylum seekers available in practice?
☐ Yes ☒ Limited ☐ No
4. If material conditions are reduced or withdrawn, are asylum seekers still given access to health care?
☐ Yes ☒ Limited ☐ 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, 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. The account is closed immediately when the 4 weeks have passed and any remaining money in the account is forfeited.

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

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. After the entry into force of amendments to the law in 2017, persons with a final order to leave have the right to health care and medicine only in urgent cases.²⁴⁷ However, the Migration Agency does not provide any financial assistance for health care or medicine in these cases, nor can the LMA card be used to obtain subsidies in doctor's visits.

Children and teenage asylum seekers under 18 are entitled to the same health care as all other children living in the county council area where they are seeking treatment.²⁴⁸

Asylum seekers holding an LMA card pay 50 SEK (€4.80) 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 (€2.30) per visit. Medical transportation costs €4,80. The fee for emergency care at a hospital varies from county to county. Visits after referral to other health care providers such as nurses, physiotherapists or counsellors cost 25 SEK (€2.30).²⁴⁹

Asylum seekers pay no more than 50 SEK (€4.80) for prescription drugs. That applies to children as well.

If an asylum seeker pays more than 400 SEK (€38.00), 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.

A study conducted by the Karolinska Institute revealed that the suicide rate among asylum-seeking young people reached 51.2 out of 100,000 persons; while for the general population (but the same group of age) the suicide rate was as low as 5.2 out of 100,000 persons. The study further documented 43 suicides by

²⁴⁷ Section 7, Law (2013: 407) on health care for certain foreigners staying in Sweden without the necessary permits (Lag (2013:407) om hälso- och sjukvård till vissa utlänningar som vistas i Sverige utan nödvändiga tillstånd).

²⁴⁸ 1177 Vårdguiden, 'Healthcare in Sweden for asylum-seekers, people with no papers and people in hiding', available at: <http://bit.ly/2GoMC3k>.

²⁴⁹ *Ibid.*

2017, an issue that persisted up until 2020 as six suicides and three suicide attempts were recorded during that year.²⁵⁰ In another study from 2020, the Red Cross University College and the Swedish Public Health Agency looked at the prevalence of post-traumatic stress among young newcomers living at the municipalities between 2014-2018. The results indicated that 56% of asylum-seeking young people from Afghanistan suffered from post-traumatic stress.

As regards access to health care in 2020, it should be noted that medical assistance in the context of Covid-19 is considered as urgent care, meaning that asylum seekers and undocumented migrants have access to it. Covid-19 vaccines will further be offered for free to everyone in Sweden, including asylum seekers and undocumented migrants.

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 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. Victims of torture or rape may also be of 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

²⁵⁰ EvaMärta Granqvist och Joel Larsson. *Find a humane solution for Sweden’s unaccompanied young people – now!*, October 2020, available at: <https://bit.ly/3ugPWpB>.

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.”²⁵¹

The Migration Agency had previously special accommodation for especially vulnerable people in the three major cities: **Stockholm, Gothenburg and Malmö**. However, due to contract issues the Migration Agency has had to lease those centres and as of March 2021, there was only one remaining centre accommodating vulnerable persons in **Borås**. The centre can only accommodate 20 persons and is mostly occupied. The Swedish Migration Agency are currently looking into how to best accommodate persons with special needs. Current solutions include providing private apartments to foster self-determination and increase privacy. In cases where LGBTQI-persons are involved, apartments are usually close to specialised centres or support centres for LGBTQI-persons.²⁵²

As already mentioned above, the Swedish Migration does not collect statistics on the different vulnerable groups such as ethnic minorities, victims of torture, other vulnerable persons or LGBTQI persons with individual needs of extra security in housing, although vulnerability is not necessarily associated with group membership.

1. Reception of families with children and unaccompanied children

After placement in temporary accommodation, the Migration Agency assigns a municipality that will take care of the unaccompanied child. The municipality is responsible for appointing a guardian and for investigating the child's needs and for taking a decision *inter alia* on placement in suitable accommodation. That can be in a foster home, as well as a home of relatives of the child (if deemed suitable accommodation after investigation). It can also be special accommodation for unaccompanied children. 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. Unaccompanied children aged 16 are given a daily allowance of personal needs such as clothes, medicine and leisure activities.

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.

2. Reception of LGBTQI persons

Accommodation facilities can be problematic for LGBTQI 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. Between 2009 and 2020, a total of 17 complaints from asylum seekers regarding their accommodation have been addressed to the Discrimination Ombudsman. However, none of these complaints lead to any further investigation.²⁵³

The special needs of LGBTQI persons are currently being addressed more seriously in the context of housing. The Swedish Federation for Lesbian, Gay, Bisexual, Transgender, Queer and Intersex rights (RFSL) has successfully lobbied for LGBTQI persons' interests and more effort is being made to find suitable solutions, which sometimes can consist in living in student-like corridor facilities. LGBTQI 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.

²⁵¹ Migration Agency, *Kvalitetschefens instruktion angående standard för boendeplicering av sökanden med särskilda behov*, I-37/2016, 13 June 2016.

²⁵² Information provided by the Swedish Migration Agency.

²⁵³ Diskrimineringsombudsmannen. Information provided upon request in February 2020.

With regard to LGBTQI applicants there is a government proposal to strengthen the legal rights of these groups. It is proposed that the Migration Agency to improve its ability to continuously evaluate the quality of the examination of LGBTQI asylum applications; to change the format of the LMA cards issued to asylum seekers so that they do not create obstacles for transgender persons to register; to note in the Authority's register the gender identity of asylum seekers based on self-identification and to ensure safe accommodation for LGBTQI people. In its submission to the government the Swedish Refugee Advice Centre proposed that attention should also be given to improving LGBTQI competence among legal representatives and the vulnerable situation of unaccompanied children making claims based on sexual orientation or gender identity grounds.²⁵⁴ There was no follow-up on this proposal in 2019 nor 2020.

3. Reception of 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.

4. Reception of 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.

5. Reception of women

In 2020, a total of 5,801 women applied for asylum.²⁵⁵ Throughout the year, a total average of 14,602 women were registered in the reception system, out of which 45% were listed in housing under the Swedish migration Agency, 53% are in private housing, and 2% in other housing.²⁵⁶

In 2019, the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) published its report on Sweden's implementation of the Istanbul Convention.²⁵⁷ GREVIO noticed short-comings in the reception system. Despite the requirement in the Istanbul Convention to provide specialised centres for women, this has not been sufficiently implemented in practice. There have been reports of young migrant women being placed in accommodation with older men and sharing bathroom facilities. As a result, incidents of sexual harassment of women and girls and indications of gender-based violence at the reception accommodation centres have been reported, and three women were killed since 2015. There is an overall lack of a formal policy on these issues and there is thus discretion left to the individual management of the different centres.

Thus, while there has been an improvement in identifying victims of gender-based violence, their accommodation remains an issue. As already stated above, there is currently only one centre for especially vulnerable people in **Borås** which can only house 20 persons.

²⁵⁴ Swedish Refugee Advice Centre, *Yttrande över "Transpersoner i Sverige – Förslag för stärkt ställning och bättre levnadsvillkor"* SOU 2017:92, March 2017, available in Swedish at: <https://bit.ly/2OGRlpl>.

²⁵⁵ Swedish Migration Agency, *Annual Report of 2020*, p. 39.

²⁵⁶ Swedish Migration Agency, *Annual Report of 2020*, p. 51.

²⁵⁷ GREVIO, *Baseline Evaluation Report: Sweden*, 21 January 2019, available at: <https://bit.ly/3riG6lu>.

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 Agency (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 Agency you will receive a bank card where the money is deposited.”

This information is provided both orally and in writing. In general, 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 members of the general public throughout Sweden in making new contacts.

The 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](#)).

Detention of Asylum Seekers

A. General

Indicators: General Information on Detention

1. Total number of persons detained in 2020:	2,528
2. Number of persons in detention at the end of 2020:	369
3. Number of detention centres:	6
4. Total capacity of detention centres:	528

The majority of detention decisions are taken by the Migration Agency, the Migration Courts or the Police. In some cases, the Swedish Security Service have authority to decide on detention.²⁵⁸

The Police authority can issue a detention 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.²⁵⁹ The Police is 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 4 weeks 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.²⁶⁰ The Migration Courts can issue decisions on detention while dealing with an appeal. If a decision on detention is taken first at the Migration Court, the decision can be appealed to the Migration Court of Appeal without being subject to leave to appeal.²⁶¹

If a case is being dealt with by the government, e.g. in cases regarding expulsion due to a security threat, it is the responsible Secretary of State who can take decisions on whether an alien should be detained or not.²⁶² 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.²⁶³

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.²⁶⁴

The number of detainees decreased by half from 4,144 in 2019 to 2,528 in 2020. This includes 7 children and 2,521 adults, out of which 231 were women and 2,290 men (compared to 3 children and 3,816 adults - 358 women and 3,445 men – in 2019). The decrease in the number of detainees is mainly due to COVID-19 in order to reduce crowding as well as cases where the removal conditions could not be enforced for a foreseeable future or within the 12 months time limit because of travel restrictions. Persons that were released were generally not given access to any other accommodation since they were subject to

²⁵⁸ Ch. 10, Section 13(3) Aliens Act.

²⁵⁹ Ch. 10, Sections 13 and 17 Aliens Act.

²⁶⁰ Ch. 10, Section 14 Aliens Act.

²⁶¹ Ch. 16, Section 11 Aliens Act.

²⁶² Lag (1991:572) om särskild utlänningskontroll.

²⁶³ Ch. 10, Section 17 Aliens Act; Lag (1991:572) om särskild utlänningskontroll.

²⁶⁴ Ch. 12, Section 14 Aliens Act.

enforceable deportation orders and have consequently lost their right to accommodation and aid by the Migration Agency.

Due to the corona-pandemic, the access to visit detention centres were limited and provided digital visits instead, i.e. via video communication tools. In 2020, detention centres limited the number of places in each centre from 519 to an average of 282 due to the Covid-19 situation.²⁶⁵

Detentions orders in Sweden: 2012-2020									
Year	2012	2013	2014	2015	2016	2017	2018	2019	2020
Number	2,564	2,893	3,201	3,959	3,714	4,379	4,705	4,144	2,528

Source: Migration Agency.

There were six detention centres in 2020 (**Gävle, Märsta, Flen, Kålleröd, Ljungbyhed Åstorp**) with a total of nine units and an overall capacity of 519, although reduced to an average of 282 in 2020 as a consequence of the Covid-19 situation.²⁶⁶

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

During 2017 the rules were changed regarding which authority is responsible for Dublin returnees with a legally enforceable removal order so that these now are the responsibility of the police not the Migration Agency.²⁶⁷

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. A person can only be deprived of his or her liberty for a reason set out in law.

Under Ch. 10, Section 1(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 upon entry; and
- (2) He or she cannot make probable that the identity given to the authorities is correct.

²⁶⁵ Swedish Migration Agency, *Annual Report 2020*, p. 55.

²⁶⁶ Swedish Migration Agency, *Annual Report 2020*, p. 55.

²⁶⁷ Ch. 12, Section 14 Aliens Act

Moreover, an alien may be detained:²⁶⁸

- (1) Where it is necessary for the carrying out of an 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 preparing or carrying out deportation.

Detention under points (2) and (3) of para 2 can only be ordered if there are some reasons to presume that the alien will abscond or will engage in criminal activities in Sweden or in any other way attempt to prevent deportation.²⁶⁹

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 detention are not applicable. The threshold for when detention can be used according to the Dublin Regulation must be met.²⁷⁰ In a 2017 ruling, the Migration Court of Appeal held, after referring preliminary questions to the CJEU on the matter, that the applicable rules on detention under the Dublin Regulation cannot be read in such a way as to set hindrances to the carrying out of transfers to other EU countries, and that the Dublin Regulation provisions on the length of detention must be read in line with the preamble of the Regulation and national law.²⁷¹

The Chancellor of Justice (JK), has criticised the Migration Agency in a decision regarding detention. In one case, the decision was made to enforce detention despite the fact that the deportation decision had not won legal force. The Agency was liable to pay compensation.²⁷²

The fact that the Migration Agency has been criticised for deficiencies related to a compulsory measure is serious and necessitates close monitoring. Concerns have been raised by several actors in 2020, including by the Parliamentary Ombudsman (JO), on several issues related to detention, including *inter alia* insufficient use of supervision as an alternative to detention, placement of detainees in prison or police facilities and a lack of sufficient proportionality assessments.²⁷³

On 30 June 2020, the Migration Court of Appeal ruled that Article 8(3)(d) of the Reception Conditions Directive does not allow the detention of asylum seekers under the Aliens Act when they are not detained as part of a return procedure covered by the Return Directive at the time of the asylum application.²⁷⁴ Furthermore, the provisions on detention in the Aliens Act do not provide the same possibilities for detention as the Reception Conditions Directive. The Directive's grounds for detaining an asylum seeker for the purpose of determining or confirming the applicant's identity or nationality or for the purpose of determining the factors on which the asylum application is based can therefore not be applied when there is no support for this in the Aliens Act.

On 2 July 2020, the Migration Court of Appeal found that the provisions on detention in the Reception Conditions Directive do not apply when an asylum seeker is sentenced to deportation for a crime and is taken into custody to prepare or enforce that deportation decision.²⁷⁵

²⁶⁸ Ch. 10, Section 1(2) Aliens Act.

²⁶⁹ Ch. 10, Section 1(3) Aliens Act.

²⁷⁰ Migration Court of Appeal, MIG 2015:5, 3 June 2015, available at: <http://bit.ly/2mzQO8X>.

²⁷¹ Migration Court of Appeal, MIG 2017:23, 5 December 2017, available at: <http://bit.ly/2FV6IGQ>.

²⁷² JK, 'Kritik mot Migrationsverket p.g.a. felaktigt om beslut av förvar', 4 December 2017, available in Swedish at: <https://bit.ly/2IYR1Nw>.

²⁷³ Swedish Refugee Law Center, *Hur ser regelverket ut när det gäller förvar i Sverige och finns det problem med hur det tillämpas?, Rapport om Förvar av juriststudenterna Cecilia Alpin och Arvid Skagerlind vid Uppsala Universitet inom ramen för en människorättsklinik*, 22 April 2020, available in Swedish here: <https://bit.ly/3vGq1bA>.

²⁷⁴ Migration Court of Appeal, MIG 2020:14, 30 June 2020.

²⁷⁵ Migration Court of Appeal, MIG 2020:15, 2 July 2020.

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.²⁷⁶ Authorities are obliged to consider if supervision can be used as an alternative to detention, before deciding on detention. Even though this should always be 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.²⁷⁷

Supervision entails regular reporting to the police or to the Migration Agency, depending on which authority is responsible or the decision. It may also entail surrendering passports or other identity documents.²⁷⁸ Similarly to detention, supervision in the asylum context is rarely used during ongoing asylum procedures and when it is used it is mainly applied in relation to applicants in Dublin procedures or applicants who are undergoing a new procedure following a subsequent application. In 2020, a total of 300 supervision decisions were taken by the Migration Agency.²⁷⁹

On 5 February 2020, the Migration Court of Appeal expressed that, in order for supervision to be used as an alternative to detention, there must be a ground for detention in accordance with the Aliens Act – and that that ground must be in compliance with the Returns Directive.²⁸⁰

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 the following circumstances:

- (1) “It is probable that the Police will be the authority enforcing the expulsion order or 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”,²⁸¹ or

²⁷⁶ Ch. 10, Section 6 Aliens Act.

²⁷⁷ 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>.

²⁷⁸ Ch. 10, Section 8 Aliens Act.

²⁷⁹ Information provided by the Migration Agency's statistics unit.

²⁸⁰ Migration Court of Appeal, MIG 2020:2, 5 February 2020.

²⁸¹ Ch. 10, Section 2(1) Aliens Act.

- (2) For the purpose of enforcing or preparing the enforcement of a refusal of entry or an expulsion order.²⁸²

In both cases, there is an express condition that alternatives to detention (“supervision”) are not deemed sufficient to meet the purpose pursued.²⁸³ Children may not be detained for over 72 hours or, in exceptional circumstances, another 72 hours, hence in total maximum 6 days.²⁸⁴ A child cannot be separated from its guardians through the detention of either the guardian or the child.²⁸⁵ Where the child has no guardian in Sweden, detention may only be applied in exceptional circumstances.²⁸⁶

The Swedish Red Cross published a survey of children in detention during 2017. In their summary they state that “A review of the decisions that form the basis for the detention of the 57 cases also shows deficiencies in the application of law. The principle of the best interests of the child does not appear to have been applied in 33% of the decisions, which is contrary to Swedish law, EU law and international law. In 38% of the decisions, the mandatory application of the rules on alternatives to detention is lacking.”²⁸⁷

A review of research on children's health in connection with detention shows that there is strong evidence that it has a profound and negative impact on children's health and development - also when it comes to short periods or with their families. In 2018 the detention of children has decreased in actual numbers but not in the duration of stay. Migration Agency figures for 2019 show that 6 children were detained on average for 4,8 days. In 2020, 7 children were detained, including 3 girls and 4 boys. The average days of stay for girls were 4.3 days and for boys 7 days.²⁸⁸

Women are placed in the same detention centres as men, although there are certain parts of the detention centres where men are not allowed to go.²⁸⁹

In May 2020, RFSL Ungdom (RFSL Youth) published a report regarding young LGBTQI persons in detention.²⁹⁰ The three detained persons interviewed in the report expressed *inter alia* stress and fear regarding who would find out about their sexual orientation and how they would be treated because of it. Recommendations to the Migration Agency in the report include training of staff at the detention centres in LGBTQI matters and the establishing of safe sections where LGBTQI persons can be placed if they want or need.

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? | 55.3 days |

The duration of detention of adults is governed by Chapter 10, Section 4 of the Aliens Act. Generally, detention may not exceed 2 weeks, unless there are exceptional grounds for longer detention.²⁹¹ 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 if there are exceptional grounds.²⁹² 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,

²⁸² Ch. 10, Section 2(2) Aliens Act.

²⁸³ Ch. 10, Section 2(1)(3) and 2(2) Aliens Act.

²⁸⁴ Ch. 10, Section 5 Aliens Act.

²⁸⁵ Ch. 10, Section 3 Aliens Act.

²⁸⁶ Ch. 10, Section 3 Aliens Act.

²⁸⁷ Swedish Red Cross, *Barn i förvar*, November 2018, available in Swedish at: <https://bit.ly/3jPifXm>.

²⁸⁸ Swedish Migration Agency, *Annual Report 2020*, 55.

²⁸⁹ Migration Agency website, *Uppsikt och förvar*, available in Swedish at: <https://bit.ly/3cLbCDE>.

²⁹⁰ RFSL Ungdom, *Attention Detention – Situationen för HBTQ-ungdomar i Migrationsverkets förvar*, 2020.

²⁹¹ Ch. 10, Section 4(2) Aliens Act.

²⁹² *Ibid.*

more than 12 months. 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(2)(1) cannot exceed 48 hours.²⁹³

The average period of detention was 55.3 days in 2020, thus increasing from 27.8 days in 2019 and 29.1 days in 2018. This refers to an average 57.9 days for men and 31.3 days for women in 2020 (compared to 28.3 and 21.4 days respectively in 2019).²⁹⁴ The increase of the length of detention 2020 is due to COVID-19 as travel restrictions hindered the Agency to carry out departures from Sweden.

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 were six detention centres in 2019 (**Gävle, Mårsta, Flen, Kålleröd, Ljungbyhed and Åstorp**) with a total of 16 units and an overall capacity of 528 persons.²⁹⁵ The places in the detention centres have been close to fully occupied throughout 2019. This situation persisted in 2020 as the number of detainees exceeded the detention capacity. Moreover, new protection measures were implemented during COVID-19 which further reduced the availability of places.

Several civil society organisations expressed their concerns regarding the increased risk of infection for persons in detention who cannot be returned due to COVID-19-related obstacles.²⁹⁶ The umbrella organisation Swedish Network of Refugee Support (FARR) organised an online survey with questions relating to hygiene, cleaning routines, access to information and health care inside the centres; based on which the public authorities were able to adopt adequate COVID-19 measures. Five out of the six detention centres were requested to contribute through anonymous answers and a total of 22% of the detained persons at that time participated to the survey. The respondents reported issues of overcrowding, the impossibility to follow distancing rules between detainees, and shortcomings in cleaning and hygiene routines. 57% of the respondents informed that they had experienced covid-19-related symptoms, but that only 13.8% of them were able to consult a nurse to that end. Further, many respondents added that they felt their concerns and worries were not taken seriously by the detention staff. They also informed they were reluctant to tell staff about their condition and potential symptoms, out of fear of being moved to a section with infected people, as a result of which they would be even more at risk of becoming sick.²⁹⁷

Detention 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

²⁹³ Ch. 10, Section 4(1) Aliens Act.

²⁹⁴ Migration Agency. *Annual Report 2020*, Dnr: 1.3.2-2021-1600, 55; Migration Agency, *Annual Report 2019*, available in Swedish at: <http://bit.ly/382Zbh6>, 77.

²⁹⁵ Migration Agency, *Annual Report 2019*, p. 77, available in Swedish at: <http://bit.ly/382Zbh6>.

²⁹⁶ FRA, *Migration: Key Fundamental Rights Concerns*, November 2020, available at: <https://bit.ly/2ZcYnnv>, 32.

²⁹⁷ Lindberg, A., Lundberg, A., Häyhtiö, S. and Rundqvist, E., *Detained and Disregarded: How COVID-19 Has Affected Detained and Deportable Migrants in Sweden*, 2020 available in English at: <https://bit.ly/2Z6d5wJ>.

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 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.²⁹⁸ 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 for a long time been criticised by NGOs, JO and the Council of Europe Committee on the Prevention of Torture (CPT).²⁹⁹ The issue persisted, however, and in 2020 JO expressed further criticism including regarding the possibility for detainees to be held together and having contacts with the outside world. The JO considered that the Government needs to assess how detainees rights can be ensured and questions whether detainees who are not expelled for criminal offences should be placed in prison facilities at all.³⁰⁰

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.³⁰¹ 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. 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. 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.

If deemed necessary to uphold security, a 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.³⁰² Such a decision must be reviewed as often as is required but at least every

²⁹⁸ Ch. 11, Section 7 Aliens Act.

²⁹⁹ See Swedish Refugee Law Center, *Hur ser regelverket ut när det gäller förvar i Sverige och finns det problem med hur det tillämpas?*, Rapport om Förvar av juriststudenterna Cecilia Alpin och Arvid Skagerlind vid Uppsala Universitet inom ramen för en människorättssklinik, 22 April 2020, available in Swedish at: <https://bit.ly/3vGq1bA>; Swedish Red Cross, *Förvar under lupp (Detention centres under the magnifying glass)*, May 2012, available at: <https://bit.ly/3jQL5vm>; 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>;

³⁰⁰ JO, *Säkerhetsplacering förvarstagna berövas sina rättigheter*, 2020, available in Swedish at: <http://bit.ly/3qZLqZJ>.

³⁰¹ Ch. 11, Section 1 Aliens Act.

³⁰² Ch. 11, Section 7 Aliens Act.

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.³⁰³ Basically the detainee should be allowed to retain objects of personal value and other belongings. Belts and braces are not normally taken from the detainee nor are objects such as personal cutlery, perfume bottles and deodorants. However the possession of a knife is not allowed. Regarding medicine there are restrictions to possessing a large number of sleeping tablets. Since the staff at the detention do not have medical training it can sometimes be difficult to know what to decide in individual cases. However, they can refer to guidelines issue by the Social Welfare Board.

Detainees have the right to freedom of information and the right to express opinions in the same way as other citizens. Therefore, no restrictions can be placed on the individual's possession of certain newspapers or magazines. However the Migration 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.³⁰⁴ 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 organisations 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.

Smart phones are not allowed in detention centres since they can be used to take photos of persons present there. Simpler mobile phones without a camera function can be borrowed from the detention centre. 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.³⁰⁵ They can have access to these objects upon leaving the detention centre, as a list needs to be made of all stored objects.

³⁰³ Ch. 11, Section 8 Aliens Act.

³⁰⁴ Ch. 11, Section 10 Aliens Act.

³⁰⁵ Ch. 11, Sections 11-12 Aliens Act.

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.³⁰⁶ 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.

Inspections are carried out in detentions centres in accordance with the Optional Protocol to the Convention against Torture. In Sweden, the designated National Preventive Mechanism (NPM) to carry out the task is the Parliamentary Ombudsman (JO).

Kållerød, Gothenburg: During an inspection in 2018,³⁰⁷ the Ombudsman (JO) pointed out that routines regarding the removal and placement of disruptive detainees in a police holding were lacking in consistency and poorly motivated. The general impression at the inspection was that the work at the detention centre in many ways works satisfactorily, but that the facility is overcrowded and there are problems with the detainees who have drug addictions. The JO notes some deficiencies, including

- lack of uniform procedures for how circumstances are documented as the basis for decisions on separation and security placement are and that the documentation when the separation is suspended has not been done uniformly;
- many decisions lacked a clear individual assessment, and in some decisions it was difficult to understand why the circumstances reported led to the conclusion that a separation was necessary or why a separation could not continue in the local detention centre;
- application of different assessment levels;
- many decisions lacked an assessment of whether the Migration Agency could take measures to avoid a police holding placement, for example by placing the detainee in another detention centre;
- separation was used as a form of punishment for the detainees with drug issues and the custodians were placed in a police holding for the purpose of addressing and correcting a general problem with drugs in the detention centre;
- it is common for security placements to be made with reference to the Migration Agency's limited resources and that the detainees with psychological problems are placed in custody mainly because the staff at the detention centre do not have the skills to handle them;
- that it took a long time before the Migration Agency visited the detainees who were placed in security holdings and reconsidered the decisions on security placement, and that the Migration Agency at its ongoing;
- in several cases the review had not examined the reasons for the placement, mentioned in the decision.

Detention conditions during COVID-19

The Parliamentary Ombudsmen (JO) carried out an inspection regarding the COVID-19 situation at the detention facilities under the supervision of the Swedish Migration Agency. Due to the risks of infection, the Migration Agency set up two different sections in all the detention centres; namely one designed for

³⁰⁶ Ch. 11, Section 5 Aliens Act.

³⁰⁷ JO, *Inspektion av Migrationsverket, förvarsenheten i Kållerød, Göteborg, den 13–14 mars 2018*, available in Swedish at: <http://bit.ly/2JSx7WX>.

confirmed COVID-19 cases; and another section for suspected COVID-19 cases. As regards the possibility to respect physical distancing, reports from staff and detainees at the detention centres of **Flen** and **Märsta** revealed that this was difficult to implement in practice as many rooms were shared by six people. Staff informed that they had not received proper training nor information as to how to use protective equipment against the virus besides a link to an “instruction-video” illustrating how to use the safety equipment. Regarding access to information, the JO was informed that some of the detainees had received information verbally and a few had received written information on how to wash hands and other hygiene-related information.

There was one case in the **Märsta** detention centre where a detainee was found to be positive to COVID-19 on 18 March 2020 and was released from detention on the same day. The man was informed he could leave the detention centre but said he did not want to leave as he had nowhere to go and did not want to potentially infect other people. His condition deteriorated and he was examined on 21 March 2020 by ambulance personnel but did not need hospital care. His condition further deteriorated and he was hospitalised on 23 March 2020. He deceased on 14 April 2020.³⁰⁸

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.³⁰⁹ 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, 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.

NGOs and UNHCR have unlimited access to detention centres. However as of 2018 NGOs have to designate in advance the persons from their organisation who visit the detention centres. As far as the author is aware, this has not caused any particular issue in practice. In 2020, the Swedish Church reported to the FRA that detainees were unable to receive visitors (including priests) as a result of COVID-19. It was also reported that detainees were becoming more mentally unstable compared to before the coronavirus.³¹⁰

In the context of COVID-19, the Swedish Migration Agency had decided on 15 March 2020 to limit the detainees' access to visitors as indicated by the Parliamentary Ombudsman (JO) following an inspection. However, detainees could still request visits which were assessed on a case-by-case basis. The JO concluded, however, that detainees were not properly informed about this possibility.³¹¹

³⁰⁸ JO, *Migrationsverkets åtgärder med anledning av COVID-19*, 9 October 2020, available in Swedish at: <https://bit.ly/3sukG55>.

³⁰⁹ Ch. 11, Section 4 Aliens Act.

³¹⁰ FRA, *Migration Bulletin: Key Fundamental Rights Concerns*, November 2020, available at: <https://bit.ly/3qdfFge>, 3.

³¹¹ JO, *Migrationsverkets åtgärder med anledning av covid-19*, available in Swedish at: <https://bit.ly/3sukG55>.

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? ☒ Yes ☐ 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 [Grounds for Detention](#)), a detention order must be reviewed within 2 weeks, while detention orders against persons issued with a removal decision are reviewed within 2 months.³¹² Review of alternatives to detention ("supervision") is carried out within 6 months.³¹³

Where time limits are not respected, a decision to detain or hold a person under supervision ceases to be legally binding.³¹⁴

Each review of a detention order must be preceded by an oral hearing.³¹⁵ 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.

In October 2019, the Migration Court of Appeal ruled in a detention case, clarifying that the 12-month time limit is the maximum time limit an alien may be held in detention for the purpose of enforcement of a removal order. This applies also to the case where the removal failed and the person is brought back to Sweden and subsequently detained. This cannot be considered as a new detention order and it must thus not exceed 12 months in total.³¹⁶

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? ☒ Yes ☐ No
2. Do asylum seekers have effective access to free legal assistance in practice? ☒ Yes ☐ No

After 3 days in detention, an asylum seeker has access to free legal assistance on detention matters only.³¹⁷ 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.

³¹² Ch. 10, Section 9(1) Aliens Act.

³¹³ Ch. 10, Section 9(2) Aliens Act.

³¹⁴ Ch. 10, Section 10 Aliens Act.

³¹⁵ Ch. 10, Section 11(1) Aliens Act.

³¹⁶ Migration Court of Appeal, MIG 2019:17.

³¹⁷ Ch. 18, Section 1(1)(4) Aliens Act.

A child detained on the basis of the Aliens Act is always appointed a legal counsellor if he or she has no parent in Sweden.³¹⁸

E. Differential treatment of specific nationalities in detention

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

³¹⁸ Ch. 10, Section 1(3) 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 in July 2016 with the adoption of a temporary law, valid for three years.³¹⁹ The law was prolonged for an additional two year-period from July 2019 to July 2021 as a result of a political agreement between four parliamentary parties. The 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.³²⁰ A Cross-party Committee of Inquiry on Migration in Sweden was tasked with developing proposals for Sweden's future migration policy that should be "sustainable in the long term". Among the 26 changes proposed to the Alien Act, one proposal foresees that temporary residence permits shall be the general rule for beneficiaries of international protection; while resettled refugees may be granted permanent permits. Residence permits should remain limited to three years for refugees and 13 months for subsidiary protection status holders, extendable by two years subject to a new assessment, as is already currently the case through the temporary law. To get permanent residence permits, beneficiaries of international protection would need to demonstrate civic education skills, a good knowledge of Swedish language, their ability to provide for themselves and, already as of the age of 15, so-called 'good conduct', i.e. can be expected to have an honest, non-criminal, lifestyle (vandelskrav).³²¹

Several civil society organisations have raised concerns over these proposals, as they are likely to increase legal uncertainty and hinder the integration of beneficiaries of internal protection. The government stated it would consult national authorities and other stakeholders before developing a draft bill, which will need to be endorsed by the Council of Legislation before going to the parliament.

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 suspended through the temporary law.³²² This protection status can only be given to children and

³¹⁹ Lag om tillfälliga begränsningar av möjligheten att få uppehållstillstånd i Sverige, 2016:752, available at: : <https://bit.ly/3rNCGa6>.

³²⁰ See e.g. Swedish Government, 'Government proposes measures to create respite for Swedish refugee reception', 24 November 2015, available at: <http://bit.ly/1IL0I9f>.

³²¹ SOU 2020:54, En långsiktigt hållbar migrationspolitik, available in Swedish at: <https://bit.ly/36J4cgR>, 25-28

³²² Section 3 of the Temporary Law. The temporary law only allows for this protection status to be granted to children and families with children who applied for asylum before 24 November 2015, provided that the child in question is still underaged when the decision is issued. Asylum applications from persons meeting these conditions have most likely already been processed.

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**. Maintenance and housing requirements have to be met if the application is made more than three months after the reference person has received his/her status. Beneficiaries of **subsidiary protection** are granted an initial period of 13 months temporary residence permit with the same right to family reunification as refugees. During the first three years of the Temporary Law, beneficiaries of subsidiary protection were not entitled to family reunification, but this was reinstated in 2019 when the law was extended for an additional two-year period. The residence 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 the duration of the permit. 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. The circumstances in the case must also be considered as being particularly distressing. 153 first time applicants were granted permits for these reasons in 2020.³²³ 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.

In 2020, the Migration Agency granted residence permits in 4,922 first time asylum applications,³²⁴ down from 6,540 in 2019 and 11,217 in 2018.

The Migration Agency's work on resettlement of refugees was heavily affected by the Covid-19 situation. The Agency was tasked with resettling 5,000 refugees in 2020. Resettlement was paused in March 2020 but was resumed again in August. In total, 3,599 refugees were resettled during 2020, compared to 5,002 in 2019 and 5,003 in 2019.³²⁵

The vast majority of beneficiaries of international protection applying for a renewal of their temporary residence permits have had it granted. In 2020, the Migration Agency received 27,520 applications and took decisions in 29,032 cases: 27,109 were accepted and 1,075 rejected. The acceptance rate in cases tried on the merits was 97%. The vast majority of decisions on extensions of residence permits concerned **Syrians** (13,385 decisions, of which 13,019 were granted, or 99% of those tried on the merits), **Afghans** (6,515 cases, of which 5,719 were granted, or 90% of those tried on the merits), **Iraqis** (1,832 decisions, of which 1,713 were granted, or 97% of those tried on the merits), **Eritreans** (1,685 decisions, of which 1,594 were granted, or 100% of those tried on the merits) and **Stateless persons** (1,748 decisions, of which 1,627 were granted, or 98% of those tried on the merits). The average processing time for applications to extend residence permits based on protection status was 138 days in 2020.³²⁶

It should be further noted that COVID-19 also impacted the possibility in 2020 to carry out interviews and relates activities in embassies – i.e. such as visa services, family reunification procedures as well as the issuance of residence permits for studies. By way of illustration, requests for visa applications declined by 86% compared to 2019. In some embassies this was further exacerbated by local restrictions.³²⁷ For example, the Swedish embassy in **Tehran** announced on 17 August 2020 that all interviews would be

³²³ Migration Agency, *Beviljade uppehållstillstånd 2020*, available in Swedish at: <https://bit.ly/38Ac5pP>.

³²⁴ Migration Agency, *Monthly statistical report December 2020*, 8.

³²⁵ Migration Agency, *Annual Report 2020*, available in Swedish at: <https://bit.ly/2Ngcrum>, 56.

³²⁶ Migration Agency, *Monthly statistical report December 2020*, 10-11.

³²⁷ *Ibid*, 92

postponed to January 2021. The Migration Agency added that it may take months before applicants receive a new date for the interview. This affected mostly persons who have applied for a residence permit to study and applications for family reunification. However, some embassies do accept a limited number of appointments of shorter visits to leave fingerprints, take photos or collect residence permit cards, or to submit an application.³²⁸

2. Civil registration

Persons residing in Sweden need to register at the Swedish Population Register.³²⁹

When a child is born in Sweden, the maternity ward gathers information about the child and parents and sends a notification to the taxation authorities who register the birth and give the child a unique personal identity number which gives access to the welfare system etc.³³⁰

To register an existing marriage that took place outside Sweden, the taxation authorities have to be notified and evidence of the marriage submitted. Marriages that take place in Sweden require that the couple first go through a procedure with the taxation authorities and their country of origin authorities to prove that they are not married to someone else (*hindersprövning*). A certificate from the taxation office has to be shown before any marriage ceremony. The person effecting the marriage ceremony must testify that a marriage took place and fill in the requisite form.³³¹

Without civil registration a person will have problems with: opening a bank account; working in Sweden; obtaining medical treatment; registering for social insurance; and learning Swedish. Nevertheless, a person who does not have a personal identity programme is allowed to attend language courses if he or she has a right to reside in Sweden.³³²

Registering promptly is not so easy since many documents need to be authorised and approved before access to the system is granted. Of primary importance is to register with the tax authorities and obtain a personal identity number. This can take some time to obtain. If civil registration does not take place promptly and the beneficiary of international protection needs **Health Care** then there is a risk that the cost for health care will not be subsidised and therefore be billed for the full cost. Delayed registration with the social insurance office can also cause problems for access to health insurance and the right of a parent to be at home with a sick or newly-born child and get paid the appropriate rate. Once registration is complete there is equal access to these rights as nationals.

3. Long-term residence

Applying for long-term residence status was previously not necessary for beneficiaries of international protection since they were granted permanent residence permits until 2016. Moreover, most refugees preferred to apply for citizenship after 4 years of residence rather than applying for long-term residence statuses. However, refugees must also hold a permanent residence permit in order to naturalise. Following the shift to temporary residence permits through the introduction of the Temporary law, obtaining long-term residence status has become an increasingly relevant option as persons obtaining this status also obtain a permanent residence permit in Sweden.³³³

³²⁸ Swedish Migration Agency, *The embassy in Tehran is postponing all interviews until 2021*, available at: <https://bit.ly/3aLgzvb>.

³²⁹ Skatterverket, *Moving to Sweden*, available at: <http://bit.ly/1U1ljcY>.

³³⁰ Migration Agency, *Children born in Sweden*, available at: <http://bit.ly/2FbnVt1>.

³³¹ Embassy of Sweden in London, *Getting married in Sweden*, available at: <https://bit.ly/3u17kyM>.

³³² Ch. 22, Section 13 and Ch. 29, Section 2 Skollag Svensk författningssamling (2010:800). See National Board of Trade, 'Without a personal identity number in Sweden', available at: <http://bit.ly/2t2f0Fq>.

³³³ Ch. 5, Section 2 b Aliens Act.

4. Naturalisation

Indicators: Naturalisation

1. What is the waiting period for obtaining citizenship?	
❖ Refugee status, statelessness	4 years
❖ Subsidiary protection	5 years
2. Total number of citizenship grants in 2020:	68,079
3. Number of citizenship through naturalisation in 2020:	54,241

According to the Act on Swedish Citizenship (2001:82), in order to acquire citizenship in Sweden through application, a person must:

- 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, see table above);
- 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 **stateless** or a **refugee**, he or she only has to have resided in Sweden for four years.³³⁴

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.

A child can obtain Swedish citizenship through notification by the parent or guardian, if the child has a permanent residence permit and has been residing in Sweden since three years, or two years if the child is stateless.³³⁵

If a person is married to a Swedish citizen, or 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 protection status and residence permit. Rejection grounds include proving ones' identity

³³⁴ Act on Swedish Citizenship, Section 11.

³³⁵ Act on Swedish Citizenship, Section 7.

and meeting the requirements of good conduct in Sweden. Matters that are taken into account include *inter alia* whether the person has been abiding with the law or not, and whether the person has properly managed bank loans well or other finances (personal and other).

In 2020, the Migration Agency registered 83,770 new applications for citizenship. A total of 79,904 first instance decisions were handed down in 2020, out of which 67,878 granted citizenship. The majority of citizenships were granted to applicants from **Syria** (21,548); **Afghanistan** (3,854); **Iraq** (3,442); **Stateless** (3,241) and **Somalia** (.).³³⁶ The Migration Agency had 105,911 citizenship requests pending at the end of the year.³³⁷

The average number of days from application to decision at first instance was 390 in 2020,³³⁸ up from 348 days in 2019 and 220 days in 2018.

5. 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 the 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, Section 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, Section 5a provides that a person ceases being considered as in need of **subsidiary protection** (*alternativt skyddsbehövande*) if the circumstances that lead to him or her being considered in need of such protection have ceased to exist, or have changed to such a degree that protection is no longer required.

In both Chapter 4, Section 5 and 5a, it is stipulated that the status should not be considered as ceased if the refugee/beneficiary of subsidiary protection is able to invoke compelling reasons arising out of previous persecution/experiences constituting the ground for protection, respectively, for refusing to avail himself or herself of the protection of the country of nationality or, being a stateless person, of the country of former habitual residence.

With the shift from permanent to temporary residence permits through the Temporary Law introduced in 2016, the questions of cessation and withdrawal of protection status have become much more in focus.

³³⁶ Migration Agency, *Inkomna och avgjorda medborgarskapsärenden innevarande år*, available in Swedish at: <https://bit.ly/3leVywD>.

³³⁷ Migration Agency. Monthly statistical report December 2020, 55

³³⁸ Ibid.

The Migration Agency, which is also responsible for cessation procedures, has therefore issued guidance on these topics.³³⁹ When a beneficiary of international protection applies for an extension of his/her residence permit, the questions of cessation and withdrawal of protection status can be looked into if new information has appeared. In case law, the fact that the burden of proof lies with the Swedish authorities is pointed out.³⁴⁰

With the extension of the temporary law from July 2019 to July 2021, many two-year prolongation temporary permits for those granted subsidiary status will be subject to re-examination so the issue of cessation will become more prevalent in the coming years should the country of origin situation change significantly.

One issue that was brought to the attention of the Migration Court of Appeal in 2020 is the question of cessation and revocation of subsidiary protection when the beneficiary, who was granted protection because of child-specific risks, has become an adult.³⁴¹ The case concerns an **Afghan** citizen who was granted subsidiary protection in Sweden as a child, in line with the Migration Court of Appeal ruling in MIG 2017:6, and concerns the question of cessation since he is now an adult. The case was still pending at the time of writing this report (March 2021).

If the Migration Agency considers that a situation of cessation might be at hand, e.g. following an application for extension of the residence permit by a beneficiary of international protection, a withdrawal procedure will be initiated. (see [Withdrawal of protection status](#) below).

6. 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 the 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 international law.

A refugee or subsidiary protection status shall be withdrawn if the person cannot be regarded as a refugee or in need of subsidiary protection.³⁴² Grounds for this can be cessation, exclusion, serious crime, danger to national security, and misrepresentation or omission of facts. Decisions on withdrawal of protection status are taken by the Migration Agency. Decisions can be appealed to the Migration Court, and Migration Court judgments can be appealed to the Migration Court of Appeal, subject to leave to appeal. There is no explicit requirement for conducting a personal interview, however the Migration Agency's position is that a personal interview should be held in these cases given the impact the decision can have for the individual as well as the fact that the burden of proof rests with the Migration Agency. If the

³³⁹ Migration Agency, *Rättsligt ställningstagande angående förutsättningarna för att återkalla en skyddsstatusförklaring*, SR 19/2018, available in Swedish at: <https://bit.ly/3bDD7w6>.

³⁴⁰ Migration Court of Appeal, MIG 2011:13, 13 June 2011, available at: <http://bit.ly/2n4FaA6>.

³⁴¹ Migration Court of Appeal case number UM 2839-20.

³⁴² Chapter 4, Section 5 b, Aliens Act for refugee status and Chapter 4, Section 5 c, Aliens Act, for subsidiary protection status.

possibility of expulsion arises as a result of the withdrawal procedure, a legal counsel is appointed on the same grounds as in a normal asylum case.³⁴³

It should be further noted that, when it comes to cessation, review or withdrawal of international **protection**, 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 benefit from international protection. In 2020, 483 cases regarding residence permits and 820 cases concerning citizenship were reported to the Swedish Security Services.

In 2020, Sweden withdrew international protection status for 278 individuals (153 refugee status, 125 subsidiary protection status). The three most common nationalities of those concerned were **Syria** (60), **Afghanistan** (33) and **Somalia** (9).

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? ☒ Yes ☐ No
❖ If yes, what is the time limit? 3 months
3. Does the law set a minimum income requirement? ☒ Yes ☐ No

1.1. Eligible beneficiaries and family members

As described in [Residence Permit](#), a Temporary law introduced new legislation in 2016 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. This law has been prolonged a further two years until July 2021. A parliamentary commission of inquiry was tasked with proposing new legislation to enter into force when the Temporary law expires on 20 July 2021. The commission presented its proposal on 15 September 2020.³⁴⁴ The proposal raises serious concerns as it basically aims to render most of the restrictions introduced through the Temporary law permanent, including by limiting the right to family reunification to core family members only. It also includes that requirements on incomes and housing (i.e. the size and standards of housing) that need to be met when family members apply for family reunification more than three months after the beneficiary was granted protection status. However, the right to family reunification is available to both refugees and beneficiaries of subsidiary protection.

In addition to the commission's proposal, the Government subsequently presented some additional proposals including a possibility of granting a residence permit for family reunification for persons who intend to marry or cohabitate if the relationship was established already in the country of origin.³⁴⁵ This proposal is primarily aimed at enabling family reunification in same sex relationships where the partners were not able to formalise their relationship or cohabitate in the country of origin, as well as situations where partners in heterosexual relationships were not able to live together because their relationship was not tolerated in their culture.

³⁴³ Migration Agency, *Rättsligt ställningstagande angående förutsättningarna för att återkalla en skyddsstatusförklaring*, SR 19/2018, available in Swedish at: <https://bit.ly/3bDD7w6>, 18.

³⁴⁴ En långsiktigt hållbar migrationspolitik, SOU 2020:54, available in Swedish at: <https://bit.ly/2MPZA1j>.

³⁴⁵ Kompletterande promemoria till betänkandet En långsiktigt hållbar migrationspolitik (SOU 2020:54), available in Swedish at: <https://bit.ly/3aBCLXk>.

With the Temporary law, people who are granted a protection status - either the refugee or the subsidiary protection status - have the right to be reunited with their nuclear family. When the Temporary law was first introduced, beneficiaries of subsidiary protection were not entitled to family reunification. However, the extension of the Temporary Law in 2019 removed the ban on family reunification for beneficiaries of the subsidiary protection. This was mainly the result of litigation efforts and the fact that the Migration Court of Appeal ruled in a case that the denial of family reunification for a young Syrian child was in breach of Article 8 of the European Convention on Human Rights (ECHR) and Articles 3, 9 and 10 of the United Nations Convention on the Rights of the child (CRC).³⁴⁶ The beneficiaries of subsidiary protection who had previously been excluded from family reunification under the Temporary law were given a three month timeline to apply for family reunification without having to meet income and housing requirements.

The beneficiary of international protection must also be regarded as having “well-founded” prospects of being granted a permanent residence permit in order to be entitled to family reunification.³⁴⁷ With the exception of certain cases, e.g. in the case of cessation or withdrawal procedures, the Migration Agency usually considers that most beneficiaries of protection have “well-founded” prospects of being granted such a residence permit in practice.

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

- Husband, wife, registered partner or cohabiting partner;
- Children under the age of 18 years at the time of the decision, not the application;
- 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 of international protection 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 children in common.

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, subject to income and housing requirements (see below).

The temporary legislation has been heavily criticised by civil society organisations. In 2016, the government was clear about the purpose behind the introduction of the new restrictive legislation, which was to discourage persons (i.e. new asylum applicants) from trying to reach Sweden.

In 2018, the Swedish Red Cross and the Swedish Refugee Law Center analysed the effects of restrictions to family reunification in respective reports published, from a humanitarian and legal perspective respectively. The Red Cross report showed that both the introduction of temporary residence permits and the restrictions regarding family reunification had a negative impact on mental health and integration.³⁴⁸ The report by the Swedish Refugee Law Center showed *inter alia* difficulties in the application of the law and the possible breach of Article 14 ECHR, in conjunction with Article 8, because of the discrimination faced by beneficiaries of subsidiary protection as they were excluded from family reunification.³⁴⁹

³⁴⁶ Migration Court of Appeal, MIG 2018:20.

³⁴⁷ Section 6, Law on temporary restrictions on the possibility of obtaining a residence permit in Sweden. Note that the Swedish translation of “reasonable” in Article 3 of the Family Reunification Directive is equal to “well-founded” rather than reasonable.

³⁴⁸ Swedish Red Cross, Humanitarian consequences of the Temporary Aliens Act, 2018, available in Swedish at: <https://bit.ly/2WaNOfm>. A summary in English available at: <https://bit.ly/2xNPBm8>.

³⁴⁹ Rådgivningsbyrån, 'Migrationsrättens framtid – en redogörelse för de juridiska riskerna med att förlänga den tillfälliga lagen', 8 October 2018 available in Swedish at: <https://bit.ly/3qonjoh>.

Up until 2018, one of the major obstacles to benefit from family reunification related to the obligation to prove one's identity, as laid down in law. However this situation has been resolved in 2018. A precedent-setting ruling was handed down by the Migration Appeal Court on 5 March 2018, stating that for **refugees** and their nuclear family the level of proof of identity can be relaxed because it is unreasonable to expect them to approach their national authorities to obtain a passport and thereby endanger the situation of remaining family members in Eritrea.³⁵⁰ It is sufficient in such cases for a DNA test to be taken as a first instance measure. This decision does not apply automatically to beneficiaries of **subsidiary protection** according to the Court and DNA tests are of no help if a couple has no children but are still in a stable relationship. Although detailed statistics or information is not available, this decision is likely to have had a positive impact in practice by allowing families to be reunited.

1.2. Material requirements and procedure

The temporary law has introduced 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 domicile. Refugees whose family applies for family reunification within three months of the sponsor being granted a permit are exempt from this requirement. The combination of strict time limits and high income and housing requirements could also effectively remove refugees' possibility of being reunited with family members.³⁵¹

As stated on the Migration Agency's website, income and housing requirements are as follows:³⁵²

"How high an income you must have to meet the maintenance requirement depends on how big your family is and how high your housing costs are. You must have an income that corresponds to what is called a 'standard amount' when your housing cost has been deducted. This means that, after your housing has been paid each month, you have to have enough money to cover the costs of, for example, food, clothing, hygiene, telephone, household electricity, insurance and other minor outlays for temporary needs.

For 2020 the standard amount is:

- SEK 5,016/€490 for a single adult
- SEK 8,287/€810 for spouses or partners living together
- SEK 2,662/€260 for children aged 6 years or younger
- SEK 3,064/€299 for children aged 7 years or older

You also have to have a home of a sufficient size and standard for you and your family. For two adults without children a home is big enough if it has a kitchen or kitchenette and at least one room. If children are going to live in the home, there must be more rooms. Two children can share a bedroom".

In 2020, a total of 43,900 applications for residence permits based on family ties were lodged (of which 33,466 were first time applications). The Migration Agency issued total of 51,044 decisions (of which 39,051 were first time applications), out of which 61% (52% of the first time applications) were approved. By the end of the year, a total of 30,003 family reunification applications were pending (of which 25,839 were first time applications). Across all instances, a total of 5,507 residence permits were granted in family reunification cases where the person in Sweden was a beneficiary of international protection.³⁵³

Waiting times for family reunification procedures are long and in particular the waiting time at the embassy for interview of applicants. The average waiting time from application to decision was 266 days (303 for

³⁵⁰ Migration Court of Appeal, MIG 2018:4, UM-2630-17, 5 March 2018, available at: <https://bit.ly/3jOZ7Jf>.

³⁵¹ NOAS, *Realizing Refugees' Right to Family Unity The challenges to family reunification in Norway, Sweden and Denmark*, 2019, available at: <https://bit.ly/34EmRZ6>, p.13

³⁵² See the official website of the Swedish Migration Agency, available at: <https://bit.ly/3bLI3iu>.

³⁵³ Migration Agency, *Beviljade uppehållstillstånd anknytning 2020*, available at: <https://bit.ly/38zdRHj>.

first time applications).³⁵⁴ 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 obstacles to family reunification. Sweden has designated **Khartoum** as an embassy that Syrians may apply from but waiting periods for interviews have been as long as 22 months. As explained in **Residence permit**, there were also important delays in 2020 due to the COVID-19 context and the impossibility to conduct interviews at embassies in the context of family reunification procedures.

In November 2018, FARR published a critical report on the persisting challenges in family reunification procedures.³⁵⁵ FARR also made a formal complaint together with the Stockholm City Mission to the European Commission claiming Sweden was breaching its commitment to respecting time limits for dealing with applications for family reunification.³⁵⁶ This complaint was first addressed in an EU pilot procedure (ref EUP (2018) 9384) in which the Swedish authorities submitted a reply to the Commission's questions. The Commission did not consider the reply of the Swedish authorities satisfactory, and therefore launched an infringement procedure by sending a letter of formal notice on 17 July 2019 (ref NIF Case 2019/4073).³⁵⁷ According to information provided by the Commission in February 2020, the Swedish authorities have replied to this letter and the Commission is examining the reply. The Commission further stated that discussions are ongoing with the competent Swedish authorities on several matters, including exceeded deadlines for processing applications for work and residence permits. The Swedish authorities are reportedly working towards improving the procedures and reducing the processing times. No further update on the matter was available at the time of writing of this AIDA report (March 2021).

2. Status and rights of family members

Family members are given a residence permit for reasons of family reunification. When in Sweden, they can apply for status as a refugee or person eligible for subsidiary protection, following the same procedure as an asylum seeker. For family members of **refugees**, there is the possibility to obtain a subsidy to cover travel costs to Sweden.³⁵⁸ However, government funding for these costs is not sufficient so currently there is little funding available. The budget for travel grants for relatives had a low expenditure in 2020 where 30% of the budget was spent. This was due to a terminated agreement with the International Organisation for Migration (IOM) in 2019 with no new agreement yet reached and travel obstacles due to the COVID-19 pandemic.³⁵⁹ For family members of persons with subsidiary protection the Swedish Red Cross has partial funding available but even these resources are strained at present.³⁶⁰

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 (LGBTQI profile, for instance). There are cases where violence and protests have occurred in reception centres between different nationalities but their frequency has dropped since the

³⁵⁴ Migration Agency, *Monthly statistical report December 2020*, 35.

³⁵⁵ FARR, 'När lagen splittrar – En exempelsamling om striden för familjeåterförening' in Artikel 14 #3 2018, available in Swedish at: <http://bit.ly/2CNGeCj>.

³⁵⁶ Stockholms Stadsmission, Göteborgs Stadsmission and FARR, Complaint to the European Commission, available at: <http://bit.ly/2Fqclbp>.

³⁵⁷ European Commission, July infringements package: key decisions: <https://bit.ly/2SEFyqs>.

³⁵⁸ Förordning (1984:936) om bidrag till flyktingar för kostnader för anhörigas resor till Sverige.

³⁵⁹ Swedish Migration Agency, *Annual Report 2020*, , Dnr: 1.3.2-2021-1600, 19.

³⁶⁰ Swedish Red Cross, *Återföreningsresor*, available in Swedish at: <https://bit.ly/3aCfX9V>.

serious overcrowding that pertained in 2016. Such incidents, when they occur, 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, supplemented by rules issued by the Migration Agency.

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 Refugee Convention travel documents. A total of 17,809 travel documents were issued in 2020.

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. In 2020, a total of 10,112 passports were issued.

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 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 document 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 ³⁶¹ |
| 2. Number of beneficiaries staying in reception centres as of 31 December 2020 | 631 ³⁶² |

Persons obtaining positive decisions can be placed in municipalities by the Migration Agency based on a quota system. This is described as "settlement" (*Bosättning*). A law was passed in 2016 mandating municipalities to receive those granted residence permits after the asylum procedure.³⁶³ 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

³⁶¹ 2 months is the maximum time following the designation of a municipality as a reception municipality by the Migration Agency, Section 10, Förordning (2016:39) om mottagande av vissa nyanlända invandrare för bosättning, available in Swedish at: <https://bit.ly/3bfdUXN>.

³⁶² Migration Agency, *Monthly statistical report December 2020*, including year-end numbers, p. 26.

³⁶³ Lag (2016:38) om mottagande av vissa nyanlända invandrare för bosättning, available at: <http://bit.ly/2mqkzq2>.

Agency as a reception municipality.³⁶⁴ After that period the responsibility for providing support and housing falls on the municipality.³⁶⁵ This responsibility lasts for 2 years while the so-called establishment process is going through. After that period many municipalities revoke the housing contract and individuals are obliged to find their own accommodation. If they fail they can request social housing as a temporary solution.

In 2020, a total of 13,165 persons were assigned to be received in municipalities throughout Sweden after receiving a residence permit, including 3,516 who were resettled, 2,619 who had been staying in reception centres, 2,798 who had been residing in accommodation that they had arranged themselves and 3,317 relatives and 915 “other”.³⁶⁶

The average delay between the granting of a permit and being settled in a municipality was 58 days in 2020, down from 60 days in 2019, and just within the two-month deadline for leaving Migration Agency accommodation.³⁶⁷ A total of 631 beneficiaries with residence permits were living in Migration Agency accommodation at the end of 2020, down from 1,120 in 2019.³⁶⁸ This significant decrease in the number of beneficiaries staying in Migration Agency accommodation is most likely due to the decrease in number of persons being granted residence permits in asylum cases (in first instance: 4,922 in 2020, down from 6,540 in 2019).³⁶⁹

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.

Swedish municipalities are obliged by law to provide housing for persons granted protection or the right to stay on other grounds. This obligation lasts for two years only and after that there is no guaranteed housing and persons can be evicted. A court decision has confirmed that this is a correct interpretation of the law.³⁷⁰ This leads to greater insecurity in the integration process and if no other housing is available locally the refugees might have to move to another town.

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 finding housing is the responsibility of the Migration Agency for those living in their accommodation who are assisted in finding suitable housing in municipalities throughout Sweden.³⁷¹ Those living in private accommodation do not access this assistance. 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.

³⁶⁴ Section 10, Förordning (2016:39) om mottagande av vissa nyanlända invandrare för bosättning, available in Swedish at: <https://bit.ly/3bfdUXN>.

³⁶⁵ Migration Agency, ‘Bosättning i en kommun’, 20 January 2017, available in Swedish at: <http://bit.ly/2msvG3J>.

³⁶⁶ Migration Agency, *Monthly statistical report December 2020, including year-end numbers*, 28.

³⁶⁷ Migration Agency, *Monthly statistical report December 2020, including year-end numbers*, 30.

³⁶⁸ Migration Agency, *Monthly statistical report December 2020, including year-end numbers*, 26, and *Monthly statistical report December 2019*, 30.

³⁶⁹ Migration Agency, *Monthly statistical report December 2020, including year-end numbers*, and *Monthly statistical report December 2019*, p. 8.

³⁷⁰ Sabo, ‘Ny dom ger kommun rätt att säga upp nyanländas hyreskontrakt’, 5 April 2018, available in Swedish at: <https://bit.ly/2UwxmH2>.

³⁷¹ Migration Agency, ‘Bosättning i en kommun’, 20 January 2017, available in Swedish at: <http://bit.ly/2msvG3J>.

Refugees granted residence permits under the upper secondary education law can extend their residence if they find full-time jobs within six months. However, this was reported to be very difficult during COVID-19 and several organisations have expressed concern to the FRA about the insecurities in this regard.³⁷²

In 2020, the general unemployment rate was 8.3%, up from 6.8% 2019.³⁷³ However, when it comes to newly arrived persons with residence permits, it is higher. It has previously taken up to ten years before half of the new arrivals could establish themselves in the labour market. According to figures from early 2018 this is going much faster. Nearly half, 48.5%, of those who were granted residence permits in 2011 had jobs after five years. Among newly arrived men, 49.3% were in work after three years.³⁷⁴

Obstacles to obtaining employment include lack of language skills, complicated process for validation of diplomas, lack of low-skill job opportunities and host society attitudes.

The [Swedish Council for Higher Education](#) evaluates foreign secondary education, post-secondary vocational education and academic higher education certificates.

2. Access to education

Beneficiaries of international protection have the right to full access to education at all levels.³⁷⁵ There are requirements regarding proficiency in Swedish and English for higher education studies and other more specific requirements regarding proficiency in other subjects relevant to the course of studies. Fulfilling these requirements can take time and therefore add to the time it takes to obtain full qualifications.

Higher education is financed by student loans with partial grants. Some universities offer fast track courses for those already possessing higher education degrees.³⁷⁶

F. Social welfare

Refugees and subsidiary protection beneficiaries have the same rights regarding social welfare under the same conditions as nationals. There is a special remuneration system for able-bodied successful asylum seekers between 18 and 64 for the first two years, called the “introduction benefit”.³⁷⁷ If after that they are unable to support themselves they have access to social welfare on the same basis as nationals. Social welfare is administered by the Swedish National Insurance Board and the Municipal Welfare Board.³⁷⁸

It is the municipality where a beneficiary is registered as resident that has the responsibility to provide support. This can mean that if a family resides in one place and the father moves to another town to find work and fails, then he will not receive support from the municipality he moved to but will be referred back to the initial municipality.

In practice, obstacles to prompt Civil Registration may have a temporary impact on beneficiaries’ access to social welfare.

³⁷² FRA. *Migration: Key Fundamental Rights Concerns*, November 2020, available at: <https://bit.ly/3aM2e0b>, 7.

³⁷³ SCB, *Arbetslöshet i Sverige*, available at: <https://bit.ly/3toSBwX>.

³⁷⁴ Government, ‘Nyanländas etablering går snabbare’, 31 January 2018, available in Swedish at: <https://bit.ly/2UTd53D>.

³⁷⁵ Centrala studiestödsnämnden, *Refugee – support from CSN*, available at: <https://bit.ly/2Zio06v>.

³⁷⁶ See e.g. Linköping University, *Utbildningsutbud på LiU, kompletteringsmöjligheter och snabbspår*, available in Swedish at: <https://bit.ly/39zzdVK>.

³⁷⁷ Lag (2010:197) om etableringsinsatser för vissa nyanlända invandrare.

³⁷⁸ Socialtjänstlag (2001:453) Svensk författningssamling. See also Socialstyrelsen, *Social assistance*, available at: <https://bit.ly/3u05Wwb>

Persons granted international protection have the right to access part of the Swedish pension system (the so-called general pension) and are treated in the qualification process as if they had been gainfully employed in Sweden since their late teens.³⁷⁹

G. 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 in different languages on the website www.informationsverige.se. Health care access differs from county to county or region to region.

Persons who are victims of torture and in need of rehabilitation do not always get prompt help and the queue for treatment, which is often lengthy, is on the increase. The county health authorities are the main providers of health care but the Swedish Red Cross also has a number of rehabilitation centres and extensive experience of treating victims of torture.

The Public Health Agency of Sweden found that there was an overrepresentation of persons being infected by Covid-19 among persons born in other countries than Sweden, with persons born in Turkey, Somalia and Iraq being particularly affected during parts of the pandemic. Socio-economic factors have been identified as the cause of this.³⁸⁰

All persons who want to get vaccinated against Covid-19 will be offered access to vaccines, including beneficiaries of international protection, undocumented migrants and asylum seekers. If a person is undocumented and has difficulties to follow the measures enforced by the Swedish Public Health Agency to reduce the spread of corona, they might be offered to receive the vaccine at an earlier stage. In Sweden, there are four phases of the vaccination. Concerning undocumented persons, they would then be able to receive the vaccine in phase three.³⁸¹

³⁷⁹ GP, 'Skral pension för nya svenskar', 6 September 2015, available in Swedish at: <http://bit.ly/2FAHIFr>.

³⁸⁰ See Public Health Agency of Sweden, *Födelseland och risken att drabbas av covid-19*, available in Swedish at: <https://bit.ly/3rMBCCV>, and Läkartidningen, *Utlandsfödda är överrepresenterade bland de smittade*, available in Swedish at: <https://bit.ly/3duUr8u>, and SVT, *Inkomst är mest avgörande för dödlighet i corona*, available in Swedish at: <https://bit.ly/31F0eCO>.

³⁸¹ Swedish Refugee Law Center. Information about Corona for asylum-seekers or people residing in Sweden without papers. Available at: <https://bit.ly/3rBtvZM>.

ANNEX I – Transposition of the CEAS in national legislation

Directives and other instruments 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	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	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 1 July 2017 (Article 27.3 (c))	Law (2013/14: SfU20) amending the Aliens Act due to the entry into force revised Dublin Regulation Law (2017:523) amending the Aliens Act	http://bit.ly/2m9WuTs (SE) https://bit.ly/2Sh5mZB (SE)

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