

Country Report: Sweden



2021 Update



Acknowledgements & Methodology

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

The information in this report is up to date as of 31 December 2021, 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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Glossary & List of Abbreviations

| | |
|---------------|---|
| AMIF | Asylum, Migration and Integration Fund |
| CAT | UN Committee Against Torture |
| CJEU | Court of Justice of the European Union |
| CPT | Council of Europe Committee on the Prevention of Torture |
| CRPD | UN Committee on the Rights of Persons with Disabilities |
| 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: 2021

| | Applicants in 2021 | Pending at end 2021 | Refugee status | Subsidiary protection | Humanitarian protection | Rejection | Refugee rate | Sub. Prot. rate | Humanitarian Prot. rate | Rejection rate |
|--------------|--------------------|---------------------|----------------|-----------------------|-------------------------|-----------|--------------|-----------------|-------------------------|----------------|
| Total | 11,412 | 5,509 | 2,112 | 637 | 275 | 7,970 | 19% | 6% | 3% | 72% |

Breakdown by the 10 most common countries of origin of the total numbers:

| | | | | | | | | | | |
|-------------------|-------|-------|-----|-----|----|-----|------|------|-----|-----|
| Afghanistan | 1,491 | 1,147 | 271 | 40 | 11 | 247 | 45% | 7% | 2% | 46% |
| Syria | 1,274 | 667 | 369 | 334 | 16 | 234 | 39% | 35% | 2% | 24% |
| Iraq | 934 | 558 | 71 | 17 | 17 | 497 | 12% | 3% | 3% | 82% |
| Ukraine | 523 | 165 | 1 | 4 | 0 | 491 | 0,2% | 0,8% | 0 | 99% |
| Turkey | 492 | 387 | 283 | 1 | 9 | 149 | 64% | 0% | 2% | 34% |
| Somalia | 456 | 221 | 84 | 6 | 11 | 274 | 22% | 2% | 3% | 73% |
| Eritrea | 406 | 127 | 217 | 13 | 10 | 99 | 64% | 4% | 3% | 29% |
| Iran | 376 | 235 | 247 | 0 | 9 | 461 | 34% | 0% | 1% | 64% |
| Stateless persons | 347 | 171 | 82 | 28 | 36 | 159 | 27% | 9% | 12% | 52% |
| Ethiopia | 301 | 141 | 34 | 3 | 2 | 234 | 12% | 1% | 1% | 86% |

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

Source: Migration Agency Monthly Statistical Report December 2021, Dnr: 1.1.1.2-2021-2118, pages. 8, 14; Migration Agency, Monthly Statistical Report December 2021, Dnr: 1.1.1.2-2021-2118, pages. 8, 9, 14; Statistics provided by the Migration Agency's statistics unit *Eurostat*, table A05, A06, A08. (Please note that decisions according to the Dublin regulation are not included as rejections).

*Statistics on decisions cover the decisions taken throughout the year, regardless of whether they concern applications lodged that year or in previous years. "Rejection" only covers negative decisions on the merit of the application, not inadmissibility decisions.

Gender/age breakdown of the total number of applicants: 2021

| | Number | Percentage |
|-----------------------------------|--------|------------|
| Total number of applicants | 11,419 | 100% |
| Men (incl. children) | 7,200 | 63% |
| Women (incl. children) | 4,219 | 37% |
| Children | 2,754 | 24% |
| Unaccompanied children | 507 | 4% |

Source: Migration Agency, *Asylum statistics*, available at: <http://bit.ly/2kkz2Vu>; See also Migration Agency Yearly Statistical Report 2021, Dnr 1.3.2-2022-2199, pages 55-56. Please note that there is a minor discrepancy in these figures.

Comparison between first instance and appeal decision rates: 2021

| | First instance | | Appeal | |
|----------------------------------|----------------|------------|---------------|---------------|
| | Number | Percentage | Number | Percentage |
| Total number of decisions | 12,793 | 100% | 12,709 | 100% |
| Positive decisions | 3,310 | 26% | 92 | 7% |
| • <i>Refugee status</i> | 2,112 | 17% | not available | not available |
| • <i>Subsidiary protection</i> | 637 | 5% | not available | not available |
| Negative decisions | 7,970 | 62% | 9,799 | 77% |

Source: Migration Agency Monthly Statistical Report December 2021, Dnr: 1.1.1.2-2021-2118, page 8, 14, 19. See also Migration Agency, *Asylum statistics*, available at: <http://bit.ly/2kkz2Vu> where the total number of decisions is recorded as 12,804, comprising 3,313 positive decisions and 6,641 negative decisions. However, these numbers include Dublin decisions. According to the Migration Agency's Monthly Statistical Report, positive decisions make up 32% of the total number of decisions tried on the merits of the application (excluding Dublin decisions and other cases not tried on the merits). However, the total numbers from the two sources does not seem to add up.

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 | Lag (1994:137) om mottagande av asylsökande | LMA | https://bit.ly/2ES88Ne (SE) |
| Law on temporary limitations to the possibility of being granted a residence permit in Sweden, 2016:752 (prolonged on 20 July 2019 [2019:481] to 19 July 2021, then ceased) | Lag (2016:752) om tillfälliga begränsningar av möjligheten att få uppehållstillstånd i Sverige | | 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 | Utlänningsförelösa, 2006:97 | UtlF | https://bit.ly/2HM9fkP (SE) |
| Ordinance on the Act on Reception of Asylum Seekers, 1994:361 | Förelösa (1994:361) om lagen om mottagande av asylsökande, 1994:361 | | https://bit.ly/2jMHsV9 (SE) |
| Ordinance with Instructions for the Migration Agency, 2019:502 | Förelösa (2019:502) med instruktion för Migrationsverket | | https://bit.ly/2L7YbPr (SE) |

Overview of the main changes since the previous report update

The report was previously updated in **May 2021**.

Asylum procedure

- ❖ **Afghanistan:** As a result of the developments in Afghanistan, the Swedish Migration Agency decided on 16 July 2021 to halt all deportations to Afghanistan and on 23 July 2021 to suspend decision-making in general in asylum cases concerning Afghans. On 30 September 2021, new guidance was adopted by the Migration Agency essentially allowing for re-examination of previously rejected Afghan cases with enforceable expulsion orders. 1,500 Afghans were resettled to Sweden, many of whom were evacuated from Afghanistan in a special evacuation operation performed by the Migration Agency and other Swedish Agencies.
- ❖ **Safe countries of origin:** In May 2021, Sweden implemented the APD's provision regarding safe countries of origin in its national legislation and a list of safe countries of origin was developed, giving the Swedish Migration Agency increased possibilities to use accelerated procedures for asylum seekers from countries on the list.
- ❖ **COVID-19 procedure:** Asylum interviews conducted remotely were used widely as a consequence of the Covid-19 situation.
- ❖ **UN Committee on the Rights of Persons with Disabilities (CRPD):** In a case concerning a man from Afghanistan with severe mental illness, the UN Committee on the Rights of Persons with Disabilities (CRPD) considered that Sweden had not sufficiently investigated whether the man could actually access care in Afghanistan and found that Sweden had failed to fulfil its obligations under Article 15 of the Convention on the Rights of Persons with Disabilities.
- ❖ **UN Committee Against Torture (CAT):** In a case concerning an Afghan national who had converted to Christianity, the UN Committee Against Torture (CAT) found that Sweden had failed to undertake an individualized assessment of the personal and real risk that the individual would face in Afghanistan, given the failure to place his evidence in the context of his cultural and educational background, failure to obtain and include in its assessment independent medical evidence, failure to consider evidence as a whole and the failure to accurately represent responses by the applicant.

Reception conditions

- ❖ **Re-availment of support for Afghans:** Following the decision by the SMA on 16 July 2021 to temporarily stop all deportations to Afghanistan following the Taliban take-over, many Afghans with enforceable expulsion decisions were able to apply for individual decisions to temporarily halt their expulsions, and subsequently to reavail themselves of financial support and accommodation. However, this resulted in a situation where many of these individuals could not regain such support, including Afghans who had submitted subsequent applications but were not yet granted a re-examination, Afghans whose applications for extending residence permits for upper-secondary education or work had been rejected, Dublin returnees, and others who simply lacked information on how to apply.

Detention of asylum seekers

- ❖ Two precedent rulings were made by the Migration Court of Appeal regarding the national rules on detention and the application of the Reception Conditions Directive. In the first case, the Migration Court of Appeal found 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 detention decision. In the second case, the Migration Court of Appeal found that there were grounds to detain a person who had been granted a re-examination of his right to a residence permit based on protection grounds following a subsequent application. Since the Reception Conditions Directive was applicable, the Court expressed that the detention had to be in accordance with the Directive.

Content of international protection

- ❖ **Lifting of the Temporary Law:** The law governing temporary limitations on the possibility of being granted a residence permit in Sweden, which was introduced in 2016, ceased on 19 July 2020. However, several restrictions introduced through the Temporary Law were made permanent through changes to the Aliens Act, including a shift to temporary residence permits for beneficiaries of international protection, requirements regarding qualification time, ability to provide for oneself and good conduct as requisites for being eligible for permanent residence permits, limitations regarding family reunification and requirements regarding income and housing for family reunification.

Response to the situation in Ukraine

On 24 February 2022, the Swedish Migration Agency decided to suspend decision-making in Ukrainian asylum cases and to suspend the enforcement of expulsion decisions to Ukraine. The Temporary Protection Directive has been transposed into Swedish law and can be found in Ch. 21 of the Aliens Act.

Sweden initially only granted Temporary protection to persons falling within the narrow scope of persons eligible for protection:

- Ukrainian nationals residing in Ukraine and who left the country on or after 24 February 2022,
- Refugees and other beneficiaries of international protection residing in Ukraine and who left the country on or after 24 February 2022,
- Family members to persons falling within the two categories above.

The Government later decided to expand the scope to also include persons, falling within the scope of article 2.1 and 2.2 of the European Council's implementing decision, who have entered Sweden from 30 October 2021 to 23 February 2022 and remained in the country.

People being granted Temporary protection are given a residence and work permit until 4 March 2023.

Applications for asylum or residence permits on other grounds from persons eligible for Temporary protection will be granted such protection and their application for residence permit on other grounds will be struck. If they have applied for asylum, their right to protection status as refugees or beneficiaries of subsidiary protection will be handled at a later stage. However, decision-making is suspended in such cases at the time of writing.

Persons who have been granted Temporary Protection can subsequently apply for protection status. However, decision-making is suspended in such cases at the time of writing.

Persons granted Temporary Protection are entitled to accommodation and financial support at the same level as for asylum-seekers. The level of financial support has not been adjusted since 1994. Persons granted Temporary protection cannot register as residents in Sweden, meaning that they are not entitled to certain benefits. Adults who have Temporary protection are only entitled to healthcare that "cannot be postponed". Children who have Temporary protection are entitled to the same healthcare as all other children in Sweden.

The SMA's interpretation is that there are no special rules regarding family reunification for persons granted Temporary Protection and that the general rules apply. This means that people on TP in general will not have the right to family reunification.

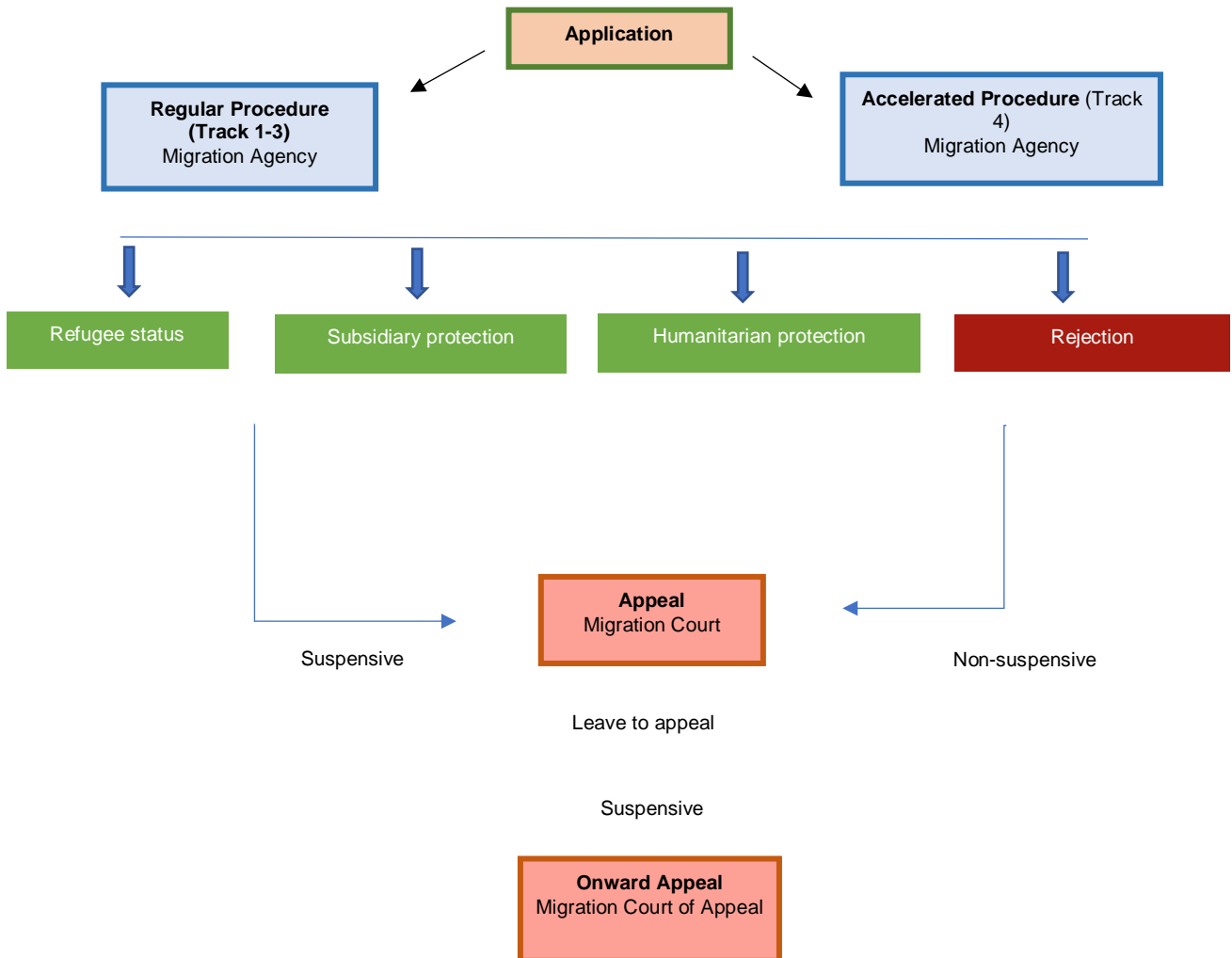
The Swedish government introduced requirements on ID controls for passengers on ferries to Sweden (on voyages longer than 20 nautical miles). The controls are to be carried out by the ferry operators, and persons who cannot present a valid photo ID are not allowed to travel. This is an obstacle for persons wanting to seek international protection in Sweden and who do not have valid photo ID.

The government also drafted a similar proposal for ID controls on buses, trains and shorter ferry trips, however this has been put on hold.

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: | Yes | No |
| • Prioritised examination: ² | Yes | No |
| • Fast-track processing: ³ | Yes | No |
| ❖ Dublin procedure: | Yes | No |
| ❖ Admissibility procedure: | Yes | No |
| ❖ Border procedure: | Yes | No |
| ❖ Accelerated procedure: ⁴ | Yes | 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 have the authority to intervene at all stages of the procedure. The government has authority to intervene in cases raising issues of national security.

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.

4. Determining authority

| Name in English | Number of staff at the end of 2021 | 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 | 5,317 | Ministry of Justice | Yes No |

Source: Migration Agency, *Annual Report 2021*, Dnr: 1.3.2-2022-2199, 40.

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.

The government made eight decisions under the Act concerning Special Controls in Respect of Aliens between 1 July 2020 and 30 June 2021, amounting to a slight decrease when compared to the two previous corresponding periods. Three of the decisions concerned dismissals of appeals against decisions of the Swedish Migration Agency regarding deportation. Those three decisions concerned individuals who had not previously been subject to any action under the Act concerning Special Controls in Respect of Aliens. Four of the decisions concerned rejections of requests for reconsideration of expulsion decisions at the request of the individual. One decision was taken regarding an application for suspension of the expulsion from an individual, which was not granted examination.⁶

Swedish Migration Agency

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

⁶ See: Government, regeringens skrivelse 2021/22:73, 2021 års redogörelse för tillämpningen av lagen om särskild utlänningskontroll, available in Swedish at: <http://bitly.ws/nYjT>.

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 General's staff and 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 for 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 training is 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?

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

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.

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 comprehensible?
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.

MIGRATIONSVERKETS REGIONINDELNING

2022-02-28

TECKENFÖRKLARING

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

LÄNSFÖRDELNING I REGIONERNA

Region Nord:

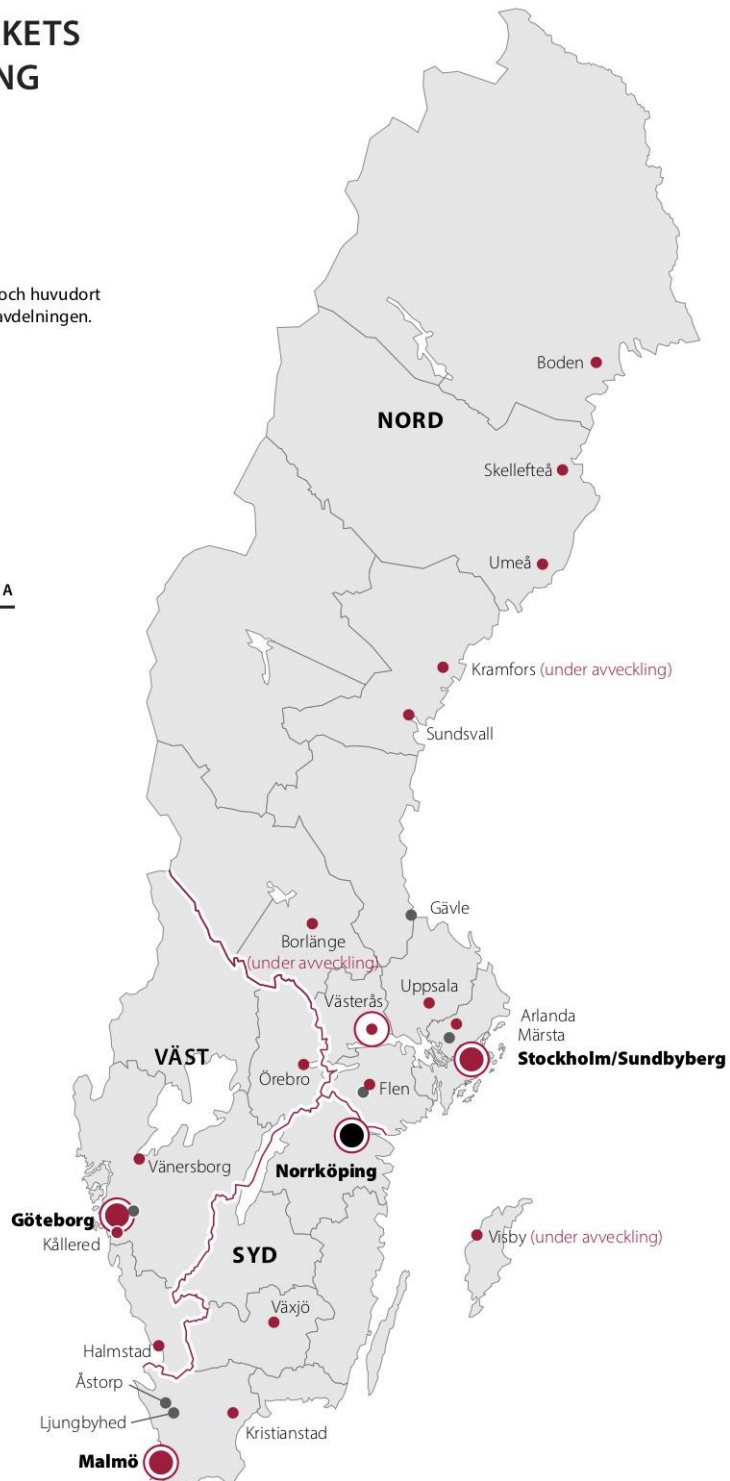
Norrbottnens län
Västerbottnens län
Jämtlands län
Västernorrlands län
Dalarnas län
Gävleborgs län
Uppsala län
Västmanlands län
Stockholms län
Södermanlands län
Gotlands län

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



Staffing within the Migration Agency¹⁰

The Migration Agency had 5,317 employees by the end of 2021. Out of the total number of employees in 2021, 340 were working as case officers and 179 as decision makers in asylum cases.¹¹ In 2021, the average age was 41 for women and 43 for men. 23 % of the work force had been employed less than five years. The average period of employment was 9 years. 90 % were full-time staff.¹²

The Migration Agency have an obligation to report suspected war crimes. In 2020, the Agency reported 86 suspected war crimes to the police. In 2021 the Agency reported 74 cases of suspected war crimes.¹³

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 who have been convicted of a crime to their home country.

First instance procedure: Asylum applications can only be made at designated offices of the Migration Agency, to which applicants at the airport and port are referred. The Migration Agency states that the protection process consists of three parts: (1) initial, (2) appeal and (3) enforcement processes. It runs from the application for asylum to the decision being enforced either by settlement or return.

Since 2016, cases are screened and sorted in different tracks based on their specific profile during the initial process.¹⁴ Manifestly unfounded applications, Dublin cases and applications from nationalities which have a high rate of refusal will 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

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 March 2022.

¹² Migration Agency, *Annual Report 2021*, Dnr: 1.3.2-2022-2199, p. 40.

¹³ Migration Agency, *Annual Report 2021*, Dnr: 1.3.2-2022-2199.

¹⁴ Migration Agency, *Rutin: Spårindela ärendet*.

other procedural measures and screenings are carried out. The different tracks provide guidance on how extensive an investigation should be 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 goal 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 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.¹⁵ 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 this has been requested.¹⁶

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.¹⁷ 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.¹⁸ 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 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

¹⁵ 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>.

¹⁷ 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.

¹⁸ Migration Court of Appeal, UM 5998-14; UM 3055-14, 19 December 2014.

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.

In 2021, the Migration Courts in total overturned decisions of the Migration Agency in 8.7% of regular asylum cases. This marks a slight increase compared to 2020, when the Migration Courts overturned decisions of the Migration Agency in 7% of cases.

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."¹⁹ 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 body 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.

¹⁹ 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 2022²⁰ 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.²¹

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 and 2021 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.²² The temporary entry ban to the EU via Sweden due to Covid-19 was extended several times. As of the end of 2021 Sweden still applied an entry ban for people travelling to Sweden from certain countries outside the EU/EEA and an extended ban on entry to Sweden from countries within the EU/EEA, but with several exemptions.²³ The latest amendments to the entry ban entered into force on 21 January 2022. Travellers are no longer required to present a negative Covid-19 test on arrival, but all travellers must present a valid vaccination certificate, a negative test taken no more than 72 hours before arrival, or a medical certificate proving that he or she has recovered from a Covid-19 infection within the past six months. Children are exempt from these requirements.²⁴ The Swedish Police Authority is tasked to interpret the rules and make decisions in individual cases upon arrival at the border control point. It is not possible to apply for an exemption in advance.²⁵

²⁰ European Commission, *Temporary Reintroduction of Border Control*, available at: <https://bit.ly/36UAZQ3>.

²¹ Government, Department of Justice, *Beslut om återinförande av gränskontroll vid inre gräns*, available in Swedish at: <https://bit.ly/3q1T85U>.

²² Government, *Extension of temporary entry ban to the EU via Sweden due to COVID-19*, available at: <https://bit.ly/3aceDvp>.

²³ Amendments to the entry ban for people travelling to Sweden from certain countries outside the EU/EEA and extended ban on entry to Sweden from countries within the EU/EEA - Government.se - <https://bit.ly/38tkj6p>.

²⁴ Amendments to the entry ban for people who travel to Sweden - Government.se - <https://bit.ly/3LoRkOj>.

²⁵ Travel to and from Sweden | The Swedish Police Authority (polisen.se).

2. Registration of the asylum application

Indicators: Registration

- | | | |
|---|------------|-----------|
| 1. Are specific time limits laid down in law for making an application? ❖ If so, what is the time limit for lodging an application? | Yes | No |
| 2. Are specific time limits laid down in law for lodging an application? ❖ If so, what is the time limit for lodging an application? | Yes | No |
| 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 2021, 11,412 preliminary applications for international protection were lodged in Sweden. This marks a decrease of 12% compared to 2020, where 12,991 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 2021, 11,419 applications were lodged in Sweden, with the majority being lodged in **Stockholm** (5,408), in **Malmö** (2,263) and in **Gothenburg** (2,120).²⁶

| Applications lodged by location: 2021 | |
|---------------------------------------|----------------------|
| Locations | Number of applicants |
| Arlanda | 993 |
| Boden | 76 |
| Borås | 6 |
| Flen | 12 |
| Gävle | 1 |
| Gothenburg | 2,120 |
| Halmstad | 14 |
| Jönköping | 1 |
| Kramfors | 7 |
| Kristianstad | 32 |
| Malmö | 2,263 |

²⁶ Swedish Migration Agency, *Applications for asylum received 2021*, available at: <https://bit.ly/2NUZ8PU>.

| | |
|-------------------|---------------|
| Mariestad | 1 |
| Norrköping | 46 |
| Skellefteå | 18 |
| Stockholm | 5,408 |
| Sundsvall | 152 |
| Umeå | 8 |
| Uppsala | 56 |
| Vänersborg | 18 |
| Västerås | 33 |
| Växjö | 35 |
| Åstorp | 17 |
| Örebro | 47 |
| Other | 55 |
| Total | 11,419 |

Source: Swedish Migration Agency, *Applications for asylum received 2021*, 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 2021, 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 | 2021 |
| Track 1 – Presumed positive outcome | 841 | 897 |
| Track 2 – Presumed negative outcome | 6,662 | 6,204 |
| Track 3 – Delayed case processing | 40 | 34 |
| Track 4A – Accelerated procedure | 105 | 343 |
| Track 4B – Safe country origin | 2,810 | 1,605 |
| Track 5A – Dublin procedure | 1,155 | 1,017 |
| Track 5B and 5C – Admissibility procedure | 292 (Track 5B) and 6 (Track 5C) | 298 (Track 5B) and 1 (Track 5C) |
| “Unknown” | 1,102 | 1,029 |
| Total | 12,991 | 11,428 |

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 2021: | 5,906 |

The average length of the asylum procedure (i.e. for all tracks) had significantly decreased from 507 days in 2018 to 288 days 2019. In 2020 the asylum procedure increased to a total of 302 days, but decreased again to 256 days in 2021.

| Average length of the asylum procedure: 2018-2021 | | | |
|---|-----------------------|-------------------|------------------|
| 2018 | 2019 | 2020 | 2021 |
| 507 days - 16.9 months | 288 days – 9.6 months | 302 – 10.1 months | 256 – 8.5 months |

Source: Swedish Migration Agency, *Monthly Statistical Report December 2021*

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 2020.²⁷ The Migration Agency increased its capacity to conduct interviews remotely via video and the interview rooms were equipped with protective equipment during the summer.²⁸ The average length of the procedure reduced in 2021. A total of 2,507 out of 5,400 asylum investigations were conducted by video by the Migration Agency during 2021.²⁹

The Migration Agency decided on 40,597 applications for international protection in 2021. This included 12,793 decisions on new applications and 27,801 prolongation decisions where renewal of a temporary protection permit was requested.³⁰ The backlog of pending cases has been reduced from 7,155 at the end of 2020 to 5,906 at the end of 2021

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

As outlined in the [Short overview of the asylum 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.³¹ In 2021, the number of applications assigned to Track 1 increased to 897. A total of 858 decisions were delivered and 342 cases were open at the end of the year.³²

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? | Yes | No |
| ❖ 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? | Yes | No |
| ❖ If so, is this applied in practice, for interviews? | Yes | No |

Swedish legislation and regulations allow for a personal interview in all asylum cases.³³ 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

²⁷ Swedish Migration Agency. *Så påverkas Migrationsverkets verksamhet av coronaviruset*, available in Swedish at: <https://bit.ly/2P6DM2G>.

²⁸ Migration Agency, *Annual Report 2021*.

²⁹ Information provided by the Swedish Migration Agency.

³⁰ Migration Agency, *Annual Report 2021*

³¹ Information provided by the Swedish Migration Agency.

³² Information provided by the Swedish Migration Agency.

³³ Chapter 13 Section 1 Aliens Act.

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 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 are of great importance in the asylum procedure. The Swedish Refugee Law Center 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.³⁴

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.³⁵

The COVID-19 situation accelerated the use of interviews via videoconference. In 2020, 4,005 out of 8,837 asylum interviews were conducted by video by the Migration Agency.³⁶ In 2021, video interviews continued to be extensively used by the SMA, with approximately half of interviews being conducted by video. A total of 2,507 out of 5,400 asylum interviews were conducted by video by the Migration Agency in 2021. 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. However, in some instances the legal representative has participated by phone, which works less smoothly. Overall, it seems crucial that the applicant and his/her legal representative can see and hear each other well during interviews.³⁷ The Migration Agency have confirmed that conducting interviews by video is not a new procedure, that is has been conducted for several years and that it works well.³⁸ The Migration Agency also stated that online interviews allow for respect of legal safeguards equally as physical meetings do.³⁹ Several NGOs such as the Swedish Refugee Law Centre, 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.⁴⁰

³⁴ Gothenburg University, *Värdering av muntliga utsagor, ett vetenskapligt baserat beslutsstöd för migrationsärenden*, 2017, available in Swedish at: <https://bit.ly/37iJFzV>

³⁵ Swedish Refugee Law Center, *Tillförlitliga kriterier? En granskning av Migrationsverkets tillförlitlighetsbedömningar av asylberättelser*, 2019, available in Swedish at: <https://bit.ly/3dtvDMn>.

³⁶ Information provided by the Swedish Migration Agency.

³⁷ Information provided by lawyers from the Swedish Refugee Law Center on March 2021.

³⁸ Sveriges Radio, *Kritik mot asylutredningar på distans*, available in Swedish at: <http://bit.ly/2ZVBipR>.

³⁹ FRA. Migration: Key Fundamental Rights Concerns, November 2020, available at: <https://bit.ly/2YThMtx>, 23.

⁴⁰ Ibid.

1.3.1. Interpretation

The applicant may request an interpreter and interviewer of a certain gender.⁴¹ The Migration Agency shall accommodate these requests if possible.⁴² 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.⁴³ 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 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.⁴⁴ In 2021, the Migration Agency noted that decisions in cases concerning Afghan nationals were subsequently overturned by the courts more often than for other first-time applications (on average below 10%).⁴⁵

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

⁴¹ Ch. 8, Section 9 c Aliens Ordinance Act.

⁴² Ibid. Note that Article 15.3(c) recast Asylum Procedures Directive introduces that obligation "wherever possible".

⁴³ Migrationsverkets kommentar till rapporten om konvertitärenden, <https://bit.ly/2ufK3Pt>.

⁴⁴ Migration Agency, *Annual Report 2019*, 38-39.

⁴⁵ Migration Agency, *Annual Report*, 96

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 June 2021.⁴⁶ 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.⁴⁷ 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.
- 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.

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

⁴⁶ Kammarkollegiet, *Kammarkollegiets tolkföreskrifter*, KAMFS 2021:2, 30 June 2021, available in Swedish at: <https://bit.ly/3wBDF10>

⁴⁷ 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.

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.⁴⁸ A specific date is given by the Migration Agency, usually two weeks, by when comments and additional information must be submitted.

Video interviews were being conducted even prior to COVID-19, but were then typically applied only when the applicant was residing a long distance from the Migration Agency's designated interview office. However, as a result of Covid-19, video interviews have increased in 2020 and 2021, in particular before the interview rooms were adapted to COVID-19 with protecting equipment during the summer of 2020.

1.4. Appeal

Indicators: Regular Procedure: Appeal

- | | | |
|---|--------------------------|------------------------|
| 1. Does the law provide for an appeal against the first instance decision in the regular procedure? | Yes | No |
| ❖ If yes, is it | Judicial | Administrative |
| ❖ If yes, is it suspensive | Yes | Some grounds No |
| 2. Average processing time for the first appeal body to make a decision in 2021: | 7.9 months ⁴⁹ | |

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.⁵⁰ 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.⁵¹

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.⁵² 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

⁴⁸ 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 checklists 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.

⁴⁹ Information provided by the National Courts Authority.

⁵⁰ Ch. 12, Section 10 Aliens Act.

⁵¹ Ch. 12, Section 8a Aliens Act.

⁵² Ch. 23 Section 2 Administrative Law (Förvaltningslagen).

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 2021, the Migration Agency changed its initial decision in only one case, out of the 12,793 decisions issued that year.⁵³ In 2020, the Migration Agency also changed its initial decision in 1 case (out of 15,299 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 2021, a total of 9,695 cases were forwarded to the Migration Courts.⁵⁴

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 2021, the prevalence of oral hearings varied significantly across the migration courts. The most cases held with oral hearings were conducted in **Malmö** (38.85%), followed by **Luleå** (26.91%), **Göteborg** (25.46% and lastly **Stockholm** (15.53%).⁵⁵

| Oral hearings held by the Migration Courts | | |
|--|----------------|--------------|
| Court | Total hearings | |
| | 2020 | 2021 |
| Malmö | 712 | 584 |
| Gothenburg | 655 | 721 |
| Luleå | 192 | 245 |
| Stockholm | 758 | 940 |
| Total | 2,317 | 2,490 |

In 2021, 2,490 oral hearings were held in Migration Courts. This is a significant reduction compared to 5,194 hearings in 2019, most likely as result of the COVID-19 situation, but amounts to an increase compared to 2,317 hearings in 2020. 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.

The average processing time for the Migration Courts to adjudicate a case in 2021 was 7.9 months, which is a reduction from 8.2 months in 2020.

⁵³ Swedish Migration Agency, *Monthly Statistical Report December 2021*, DNR: 1.1.1.2-2021-2118.

⁵⁴ Swedish Migration Agency, *Monthly Statistical Report December 2021*, DNR: 1.1.1.2-2021-2118.

⁵⁵ Statistics provided by the National Courts Authority.

Court rulings are publicly available. The rulings can be accessed either directly from the Court upon request, in paper or electronically, or via legal information databases (subject to a licence/subscription). In order to not reveal sensitive information about an applicant, the Court can decide that the name of the applicant and/or certain parts of the ruling shall be kept confidential.

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 the 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 if the request is refused, 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.”⁵⁶

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”.⁵⁷ 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.⁵⁸ 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 two 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.

⁵⁶ Ch. 16, Section 12 Aliens Act.

⁵⁷ Section 34a(2) Administrative Court Procedure Act (1971:291).

⁵⁸ Ch. 16, Section 10 Aliens Act.

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.⁵⁹ If leave is refused, the expulsion order is legally enforceable from the date of refusal.

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 | 2021 |
| Total number of appeals lodged | 10,529 | 8,358 | 6,407x |
| Total number of decisions | 10,704 | 8,560 | 6,388 |
| <i>Leave to appeal rejected</i> | 10,319 | 8,336 | 6,373 |
| <i>Leave to appeal granted</i> | 54 | 49 | 59 |
| <i>Appeals accepted</i> | 4 | 6 | 1 |
| <i>Appeals rejected</i> | 27 | 22 | 45 |
| <i>Appeals referred back to lower instances</i> | 23 | 21 | 13 |

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 2021

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, but the Government is legally responsible for the final decision.⁶⁰ 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.⁶¹

⁵⁹ Ch. 16, Section 10 Aliens Act.

⁶⁰ Ch. 2a, Special Control of Aliens Act (Lagen om särskild utlänningskontroll) 1991:572.

⁶¹ Ch. 10, Special Control of Aliens Act.

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.⁶² 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.⁶³

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.⁶⁴

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 for which they have requested payment) 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 €140.67 an hour (1,442 SEK, not including VAT).⁶⁵ At the Court level, 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

⁶² Chapter 18, Section 1 Aliens Act,

⁶³ Chapter 18, Section 1a Aliens Act,

⁶⁴ Migration Court of Appeal, Decision MIG 2017:21, UM8311-17, 14 November 2017, available in Swedish at: <https://bit.ly/3dg0Ky8>.

⁶⁵ Standard hourly fee for 2022 according to the Legal Aid Act, <http://bit.ly/3rKNoy5>.

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.⁶⁶ 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.⁶⁷ The Migration Agency have also issued internal guidance on how to establish whether the legal counsel have appropriate qualifications.⁶⁸

The recurrent appointments of unqualified legal counsel 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.⁶⁹

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.⁷⁰ This proposal have so far not yet led to a legal inquiry, and was not considered when the Alien Act and related legislative acts was amended in July 2021.⁷¹

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 for 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 2021.⁷⁴

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.

⁶⁶ 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/219LJMm>.

⁶⁷ 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>.

⁶⁸ *Rättsligt ställningstagande. Vem som kan förordnas som offentligt biträde RS/003/2020*. Available in Swedish at: <https://bit.ly/3MeCevv>.

⁶⁹ Dagens Juridik, "Lagstiftarens elefant i rummet - Migrationsverkets rätt att förordna offentliga biträden", 14 March 2018, available in Swedish at: <http://bit.ly/2Oqisfh>.

⁷⁰ Parliamentary committee of inquiry, *En långsiktigt hållbar migrationspolitik*, available in Swedish at: <https://bit.ly/2MPZA1j>, 363.

⁷¹ *Ändrade regler i utlänningslagen, prop. 2020/21:191*. Available in Swedish at: <https://bit.ly/3wXzYUK>.

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-week 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 measures.

2.1. General

Dublin statistics: 1 January – 31 December 2021

| Outgoing procedure | | | Incoming procedure | | |
|--------------------|----------|---------------|--------------------|----------|---------------|
| | Requests | Transfers | | Requests | Transfers |
| Total | 853 | 365 | Total | 2,793 | not available |
| Take charge | 334 | not available | Take charge | 159 | not available |
| Poland | 82 | not available | Greece | 85 | not available |
| Italy | 65 | not available | Germany | 29 | not available |
| Spain | 31 | not available | Unknown | 10 | not available |
| Germany | 25 | not available | France | 8 | not available |
| Estonia | 23 | not available | Italy | 6 | not available |
| Take back | 519 | not available | Take back | 2,634 | not available |
| Germany | 138 | not available | Germany | 1,380 | not available |
| Italy | 72 | not available | France | 510 | not available |
| Denmark | 50 | not available | Unknown | 178 | not available |
| Austria | 39 | not available | Belgium | 169 | not available |
| Norway | 34 | not available | Italy | 129 | not available |

Source: Information provided by the Migration Agency’s statistics unit

NB: Transfers refers to the number of transfers actually implemented, not to the number of transfer decisions.

| Outgoing Dublin requests by criterion: 2021 | | |
|---|---------------|-------------------|
| Dublin III Regulation criterion | Requests sent | Requests accepted |
| “Take charge”: Articles 8-15: | 247 | not available |
| Article 8 (minors) | 0 | not available |
| Article 9 (family members granted protection) | 2 | not available |
| Article 10 (family members pending determination) | 1 | not available |
| Article 11 (family procedure) | 1 | not available |
| Article 12 (visas and residence permits) | 242 | not available |
| Article 13 (entry and/or remain) | 1 | not available |
| Article 14 (visa free entry) | 0 | not available |
| “Take charge”: Article 16 | 0 | not available |
| “Take charge” humanitarian clause: Article 17(2) | 2 | not available |
| “Take back”: Article 18 | 486 | not available |
| Article 18 (1) (b) | 261 | not available |
| Article 18 (1) (c) | 3 | not available |
| Article 18 (1) (d) | 222 | not available |
| Article 20(5) | 2 | not available |

Source: Information provided by the Migration Agency’s statistics unit

| Incoming Dublin requests by criterion: 2021 | | |
|---|-------------------|-------------------|
| Dublin III Regulation criterion | Requests received | Requests accepted |
| “Take charge”: Articles 8-15 | 178 | 90 |
| Article 8 (minors) | 67 | 27 |
| Article 9 (family members granted protection) | 23 | 10 |
| Article 10 (family members pending determination) | 11 | 10 |
| Article 11 (family procedure) | 23 | 1 |
| Article 12 (visas and residence permits) | 48 | 35 |
| Article 13 (entry and/or remain) | 6 | 7 |

| | | |
|--|-------|-------|
| Article 14 (visa free entry) | 0 | 0 |
| “Take charge”: Article 16 | 1 | 0 |
| “Take charge” humanitarian clause: Article 17(2) | 62 | 43 |
| “Take back”: Articles 18 and 20(5) | 3,197 | 2,187 |
| Article 18 (1) (b) | 2,625 | 1,762 |
| Article 18 (1) (c) | 9 | 8 |
| Article 18 (1) (d) | 557 | 416 |
| Article 20(5) | 6 | 1 |

Source: Information provided by the Migration Agency’s statistics unit.

2.1.1. Application of the Dublin criteria

In 2021, Sweden issued 1,599 and received 4,199 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 is Swedish law.

All asylum seekers are fingerprinted if they are 14 years or older and checked both in the Eurodac and Visa Information System (VIS) databases. The top five countries of origin were Afghanistan, Syria, Iraq, Ukraine and Turkey.⁷⁵ Children aged 6 and above are fingerprinted, but they will not be checked against any databases.

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).⁷⁶ They are also 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).⁷⁷ 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 2 requests based on the “humanitarian clause” (Article 17(2) Dublin Regulation) in 2021 and none based on the “dependent persons’ clause” (Article 16 Dublin Regulation), and received 62 and 1 incoming requests on those grounds respectively.

⁷⁵ Information provided by the Swedish Migration Agency.

⁷⁶ Government. Regerings proposition 2020/21:5. *Behandling av känsliga personuppgifter i testverksamhet enligt utlänningsdatalagen*, available at: <https://bit.ly/3jYyKR4>.

⁷⁷ Government. Regeringens proposition 2020/21:6. *Ändrade bestämmelser om fotografier och fingeravtryck i SIS II-regelverket*, available at: <https://bit.ly/2ZqSSIB>.

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 28 officials in 2021.⁷⁸

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 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 usually 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.⁷⁹

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 2021 Sweden received 4,199 Dublin incoming requests and issued 1,559 outgoing requests to other Dublin States. A total of 356 Dublin transfers were carried out to another Dublin country in 2021.⁸⁰

⁷⁸ Information provided by the Swedish Migration Agency.

⁷⁹ Information provided by the Migration Agency, August 2017.

⁸⁰ Information provided by the Migration Agency's statistics unit.

The average processing time for all Dublin cases in 2021, i.e. until a transfer decision was issued, was 46 days, down from 49 in 2020, 58 in 2019 and 72 in 2018.⁸¹

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,⁸² 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.⁸³ 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 link.⁸⁴ In comparison, 62 out of a total of 164 interviews were carried out by video link in 2021.⁸⁵

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 |

⁸¹ Migration Agency, Monthly statistical report for December 2021, 12.

⁸² Migration Court of Appeal, MIG 2007:4, UM 607-06, 22 January 2007, available at: <http://bit.ly/2oZzsl1>.

⁸³ Information provided by the Swedish Migration Agency, March 2020.

⁸⁴ Information provided by the Swedish Migration Agency, March 2020.

⁸⁵ Information provided by the Swedish Migration Agency.

An application will be dismissed as inadmissible when the Dublin Regulation applies.⁸⁶ 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.⁸⁷ Moreover, appeals in Dublin cases are often expedited quickly by the Migration Court and the Migration Court of Appeal. The appeal body does not take into account the recognition rates in the responsible member state when reviewing the Dublin decision.

The Migration Court of Appeal made a reference for a preliminary ruling to the CJEU in the case of *Karim*, concerning the scope of the right to an effective remedy under the Dublin Regulation.⁸⁸ 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.⁸⁹

The Migration Court of Appeal decided on 24 November 2016 to refer the case back to the Migration Court for new consideration.⁹⁰ 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.⁹¹

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.⁹² 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.⁹³

⁸⁶ Ch. 5, Section 1c Aliens Act.

⁸⁷ Ch. 12, Section 9 a Aliens Act.

⁸⁸ CJEU, Case C-155/15 *Karim v. Migrationsverket*, OJ 2015 C198/23.

⁸⁹ CJEU, Case C-155/15 *Karim v. Migrationsverket*, Judgment of 7 June 2016, available at: <http://bit.ly/2kKfKa9>.

⁹⁰ Migration Court of Appeal, MIG 2016:24, UM 6068-14, 24 November 2016, available at: <http://bit.ly/2km3Qpk>.

⁹¹ Information provided by Migration Agency, February 2018.

⁹² Migration Court of Appeal, MIG 2020:4, 26 February 2020, see EDAL summary at: <https://bit.ly/3bN6BZv>.

⁹³ 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.

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 the 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.⁹⁴

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** that transfers there would engage Article 3(2) of the Dublin Regulation. 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.

In 2018, 2019, 2020 and 2021, no persons were transferred to Hungary.

⁹⁴ 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.

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.⁹⁵ 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.⁹⁶ In 2021, 7 requests were issued to Greece. This resulted in 7 take charge decisions but no take back decisions.⁹⁷ During 2021, 3 transfers to Greece were carried out.⁹⁸

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.⁹⁹

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 cases that have 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”)

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 2021, the Migration Agency received 298 applications that were processed under Track 5B and 1 applications were processed under Track 5C. 270 decisions were taken under Track 5B and 4 decisions taken under track 5C.¹⁰⁰

⁹⁵ Recommendation C(2016) 8525 of 8 December 2016

⁹⁶ Information from the Migration Agency, Dublin Unit, July 2019.

⁹⁷ Information provided by the Migration Agency’s statistics unit.

⁹⁸ Information provided by the Migration Agency’s statistics unit.

⁹⁹ Chapter 10, Section 13 Aliens Act.

¹⁰⁰ Information provided by the Migration Agency’s statistics unit.

2. Personal interview

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

3. Appeal

Indicators: Admissibility Procedure: Appeal
Same as regular procedure

- | | | |
|--|-----------------|------------------------|
| 1. Does the law provide for an appeal against an inadmissibility decision? | Yes | No |
| ❖ If yes, is it | Judicial | Administrative |
| ❖ If yes, is it suspensive | Yes | 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.¹⁰¹

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 April 2021 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.¹⁰²

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.¹⁰³

4. Border procedure (border and transit zones)

There is no border procedure in Sweden.

5. Accelerated procedure (“Track 4”)

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 15% (“Track 4B”). The countries currently listed are: Albania, Algeria, Angola, Armenia, Belarus, Bosnia and Herzegovina, Brazil, Chile,

¹⁰¹ Ch. 8, Section 19 Aliens Act.

¹⁰² Migration Agency, *Rättsligt ställningstagande angående avvisning av ansökan om uppehållstillstånd med stöd av 5 kap. 1 b § utlänningslagen*, RS/065/2021, 23 April 2021, available in Swedish at: <https://bit.ly/3lm5rtq>, p. 9

¹⁰³ Migration Agency, *Rättsligt ställningstagande angående avvisning av ansökan om uppehållstillstånd med stöd av 5 kap. 1 b § utlänningslagen*, RS/065/2021, 23 April 2021, available in Swedish at: <https://bit.ly/3lm5rtq>, p. 11

Colombia, Cuba, Georgia, Ghana, Honduras, India, Israel, Kazakhstan, Kyrgyzstan, Kosovo, North Macedonia, Mexico, Mozambique, Morocco, Moldavia, Mongolia, Montenegro, Nepal, Peru, Philippines, Serbia, Sri Lanka, South Africa, Thailand, Tunisia, Ukraine, USA, Uzbekistan, Venezuela and Vietnam.¹⁰⁴

In 2021, 331 persons had their applications rejected as manifestly unfounded, up from 59 in 2020. These applications were processed under Track 4A. However, in 2021, 1,836 persons received a rejection decision under Track 4B, compared to 3,385 in 2020.

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.”¹⁰⁵

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.¹⁰⁶ 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.

In the CJEU ruling in *A v Migrationsverket*,¹⁰⁷ published on 25 July 2018, 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.

After the CJEU ruling in *A v Migrationsverket*, Sweden could 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 did 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. This changed in 2021 when Sweden introduced new legislation regarding asylum applications from persons from Safe Countries of Origin, see section F.

A 2021 legal instruction by the Legal Unit of the Migration Agency,¹⁰⁸ 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 and persons from safe countries of origin applying for asylum;
- The applicant has provided false information in all essential elements;
- If only health reasons are claimed.

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

¹⁰⁴ Migration Agency, VÄGLEDNING Lista över länder och lägsta idkategorisering för sortering i spår 4B Dnr: 1.2.2.2-2021-10393, 7 May 2021

¹⁰⁵ Ch. 8, Section 19 Aliens Act. See also Ch. 12, Section 7 Aliens Act.

¹⁰⁶ Migration Court of Appeal, MIG 2006:7, UM 230-06, 31 October 2006; MIG 2010:22, UM 2244-10, 22 December 2010.

¹⁰⁷ CJEU, Case C-404/17, *A v. Migrationsverket*, Judgment of 25 July 2018, EDAL, available at: <http://bit.ly/2Ubxvn6>.

¹⁰⁸ Migration Agency, *Rättsligt ställningstagande angående avvisning med omedelbar verkställighet till hemlandet inklusive säkra ursprungsländer*, RS/071/2021, 25 maj 2021, available in Swedish at: <https://bit.ly/3sKhpAZ>.

as *Gnandi*.¹⁰⁹ 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.

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.

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.¹¹⁰ There are no differences in the way the interview is carried out compared with the **Regular Interview** apart from the absence of a legal representative.

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 Appeal**). The same time limit of 3 weeks after the decision is notified applies.¹¹¹

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 left 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.¹¹²

The 2021 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 process and up to the Migration Court's examination of the issue of suspension, nor can enforcement measures be taken.¹¹³

¹⁰⁹ CJEU, Case C-181/16 *Gnandi v Etat belge*, Judgment of 19 June 2018, EDAL, available at: <https://bit.ly/2ITsDwX>.

¹¹⁰ Migration Court of Appeal, MIG 2007:4, UM 607-06, 22 January 2007.

¹¹¹ Section 44, The Administrative Procedure Act (2017:900).

¹¹² Ch. 12, Section 8a Aliens Act.

¹¹³ Migration Agency, *Rättsligt ställningstagande angående avvisning med omedelbar verkställighet till hemlandet inklusive säkra ursprungsländer*, RS/071/2021, 25 maj 2021, available in Swedish at: <https://bit.ly/3sKhpAZ>

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.¹¹⁴ 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](#)).

A. 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 guidelines, routines, for the reception of vulnerable asylum seekers, mainly including minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children, victims of human trafficking, persons with mental disorders and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence, such as victims of female genital mutilation.¹¹⁵ (See [Reception Conditions](#))

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.

¹¹⁴ Ch. 18, Section 1 Aliens Act.

¹¹⁵ Migration Agency, *Rutin: Ta ställning till särskilda behov, initialt and Rutin: Insatser för asylsökande med särskilda behov.*

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.¹¹⁶ Under the routine mentioned above, 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 routine 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 resulted from the assessment. It is noted in the guideline 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 2021, 261 cases of suspected human trafficking were identified at the Migration Agency, including: 144 women and 117 men. 21 were children, out of which 9 girls and 12 boys. The Migration Agency provided information to the Police in 148 cases. Moreover in 2021 a total of 63 persons accepted temporary residence permits, out of which 19 women (6girls) and 44 men (3 boys).¹¹⁷ A breakdown by country of origin was not available.

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.¹¹⁸ 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 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.¹¹⁹ 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.¹²⁰ 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

¹¹⁶ Information provided by the Migration Agency, January 2018.

¹¹⁷ Migration Agency, Annual Report 2021, Dnr: 1.3.2-2022-2199, available at: <https://bit.ly/3KTSUYy>

¹¹⁸ Migration Court of Appeal, MIG 2014:1, UM 2437-13, 11 February 2014, available at: <http://bit.ly/2jQwVWr>.

¹¹⁹ 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.

¹²⁰ Ch. 13, Section 17, Aliens Act.

Agency is obliged to offer the applicant a medical age assessment.¹²¹ Consent of the applicant and his or her guardian is required. The cost of such an examination is borne by the state.

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 of the applicant's 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

In May 2016 the government gave instructions to the National Board of Forensic Medicine (*Rättsmedicinalverket*, RMV) to initiate methods for medical age assessment, while at the same time recognising that absolute accuracy was not achievable¹²²

RMV 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 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.¹²³

The statement from RMV will then become part of the supporting evidence that the Migration Agency uses to issue a decision on age.

In 2021, a total of 55 persons have been considered as adults following an age assessment procedure:

| Medical age assessments | | | | |
|---|------------|-----------|-----------|-----------|
| | 2020 | | 2021 | |
| Forensic opinions on age by the National Board of Forensic Medicine | Male | Female | Male | Female |
| Total | 134 | 42 | 67 | 40 |
| Strongly indicates that the person is 18 or over | - | - | 8 | - |
| Indicates that the person is 18 or over | 93 | 21 | 29 | 18 |

¹²¹ Ch. 13, Section 18, Aliens Act.

¹²² The Swedish Government, *Uppdrag till Rättsmedicinalverket att genomföra medicinska åldersbedömningar* Dnr Ju2016/03931/Å, available in Swedish at: <https://bit.ly/3tfRou4>

¹²³ 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.

| | | | | |
|---|----|----|----|----|
| Possibly indicates that the person is under 18 | 41 | 0 | 22 | 3 |
| Possibly indicates that the person is 18 or over | - | - | 8 | |
| Indicates that the person is under 18 | - | 7 | | 6 |
| No assessment if person is over or under 18 could be made | - | 14 | - | 11 |
| No assessment was possible | 0 | 0 | - | 2 |

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. 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.¹²⁴

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 assessments¹²⁵.

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 2018.¹²⁶ 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. The commission of inquiry will assess the situation through an independent review and shall submit its final findings by 31 May 2024 at the latest.¹²⁷

¹²⁴ Swedish Bar Association, *Promemoria Advokatens uppdrag för svaga och utsatta klienter*, updated January 2020, 35-36, available in Swedish at <https://bit.ly/3if0Bg0>

¹²⁵ 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>.

¹²⁶ 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>.

¹²⁷ Government, Terms of Reference, *Utökat kunskapsunderlag om Rättsmedicinalverkets metod för medicinsk åldersbedömning i asylprocessen*, Dir. 2020:64, available in Swedish at: <https://bit.ly/39uG5Us>.

As mentioned in the previous AIDA report, 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*). 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 child 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.¹²⁸

During 2020 criticism was directed at the commission of the inquiry because of its composition, as the designated experts are known for having defended medical age assessments in the past.¹²⁹

On 11 June 2021, RMV stated that the authority sees an opportunity to further differentiate the forensic opinion on age. In the future, RMV will respond in the documentation to the Migration Agency with different degrees of probability that a person is under or over 18 years of age, depending on the combination of results of the two different surveys.¹³⁰ The national inquiry which examined the method applied by RMV for medical age assessment in the asylum process, the current underlying scientific basis for the method, and how the scientific basis and the statements of the Board have developed over time, published its first findings in an interim report on 28 October 2021.¹³¹

The Inquiry stated initially that in a European context, RMV's method is unique. It is the only method to include an MRI of the knee as part of the assessment. The Inquiry concluded that there are uncertainties in RMV's probability model. The model is based on underlying scientific data which is more or less complete and clear cut for the different elements, and other assessors draw different conclusions based on a different evaluation of the underlying scientific data. Some such uncertainties have manifested themselves over the period that the model has been in use. These changes have meant that the same examination result regarding several combinations of maturity of knee and third molars has produced different statements over time. Furthermore, RMV's estimated percentages are subject to uncertainty.

For uncertainties, risks, and consequences to be evaluated by the Swedish Migration Agency and the Migration Courts in particular, a comprehensive account is needed. For further knowledge of how certain or uncertain the probability model is, its robustness should also be tested by RMV. The Inquiry is also tasked with ensuring that one or more research studies are conducted. The Inquiry will come back to the question of the form of RMV's statements in its final report. As mentioned above, the Inquiry will not publish its final findings until May 2024. On December 14 2021 the interim report was remitted by the government to the following referral bodies; the Swedish Migration Agency, RMV, the National Board of Health and Welfare and the Swedish Agency for Health Technology Assessment and Assessment of Social Services (SBU).¹³²

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 | | |

¹²⁸ Civil Rights Defenders, *Civil Rights Defenders kritisk till JK-beslut om medicinska åldersbedömningar*, available in Swedish at: <http://bit.ly/3cQ2TPu>.

¹²⁹ Sjukhusläkaren. *Finns fler stora frågetecken kring den här utredningen*, 14 October 2020, available in Swedish at: <https://bit.ly/3k3JjIS>.

¹³⁰ National Board of Forensic Medicine, 21 June 2021. Only available in Swedish at <https://bit.ly/34RYQ5g> / Swedish Government Official Report (2021) SOU 2021:84, *Granskning av Rättsmedicinalverkets metod för medicinsk åldersbedömning i asylprocessen*, Summary available in English at <https://bit.ly/3JriwwW>

¹³² Remit of national inquiry, SOU 2021:84 *Granskning av Rättsmedicinalverkets metod för medicinsk ålderbedömning i asylprocessen*, dnr Ju2021/03751, available at: <https://bit.ly/3lwmrGx>

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.¹³³

Examples of measures taken given in the guideline 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.¹³⁴

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.

National inquiries have identified that despite the explicit provision on the best interests of the child in the Aliens Act, assessments are often not based on the situation of the individual child. There are often references to statements in preparatory work rather than an evaluation of the best interest in the specific case.¹³⁵ On 1 January 2020, the UN Convention on the Rights of the Child (CRC) was incorporated into Swedish national law and entered into force.¹³⁶ The government in the preparatory work stated that in addition to incorporation, continued incorporation of the CRC is required and highlighted the importance of the principle of the best interest of the child being used as a rule of procedure.¹³⁷

According to Save the Children and Stockholm City Mission the incorporation had not yet resulted in any improvements for children in asylum procedures as of November 2020.¹³⁸

In 2021 UNICEF published a review of court cases from 2020.¹³⁹ It was found that in court cases where the CRC was brought up, assessments of the best interest of the child were rarely clearly documented and it was often unclear *how* the assessment had been carried out. However, there were positive outcomes in cases where the child was granted a residence permit based on particularly distressing circumstances, with reference being made to the best interest of the child. The author however cautioned that it was too early to draw certain conclusions.

¹³³ Information provided by the Migration Agency, August 2017.

¹³⁴ Migration Agency, *Rutin: Ta ställning till särskilda behov, initialt and Rutin: Insatser för asylsökande med särskilda behov*.

¹³⁵ Swedish Government Official Report, SOU 2016:19 *Barnkonventionen blir svensk lag*. Available in Swedish at <https://bit.ly/3ImKalZ>, Swedish Government Official Report, SOU 2020:63, *Barnkonventionen och svensk rätt*. Available in Swedish at <https://bit.ly/3Jo3YNn>.

¹³⁶ Lag (2018:1197) om Förenta nationernas konvention om barnets rättigheter, available at: <https://bit.ly/34PnIdJ>

¹³⁷ Government Bill, prop. 2017/18:186 *Inkorporering av FN:s konvention om barnets bästa*, p. 95 f. Only available in Swedish at: <https://bit.ly/3wh7sO3>.

¹³⁸ FRA. *Migration Bulletin: Key Fundamental Rights Concerns*, November 2020, available at: <https://bit.ly/3cWUQBv>, 11.

¹³⁹ UNICEF, *Barnkonventionen som lag i praktiken - En granskning av domar från 2020*. Only available in Swedish at: <https://bit.ly/3wcj7h6>

Other than legislative measures, there have been developments to strengthen the rights of children. The Migration Agency published a legal position on the examination of the best interest of the child in June 2020.¹⁴⁰ Sweden has received criticism from the UN Committee on the Rights of the Child regarding the provision in Chapter 1 Section 11 § of the Aliens Act, which advises refraining from hearing a child if the authority deems it inappropriate. There has been no amendment in the legislation according to the Committee's recommendations. The Migration Agency, however, has revised their legal position on hearing children.¹⁴¹ The provision must, according to the Migration Agency, be interpreted in the light of the Convention and it shall only be considered inappropriate to hear a child if the child themselves declares that he or she does not wish to be heard. However, the legal position is only a document guiding the personnel at the Migration Agency. The Swedish Migration Agency reported that, during the year, they continued their work to increase competence regarding the rights of the child as well as developing updated support material on key issues related to children's cases in all processes. A quality follow-up of the processing of children in the asylum process will be presented in 2022.¹⁴²

On 22 December 2020, the Migration Court of Appeal in a precedent ruling linked the provision of the Aliens Act on the best interests of the child and the CRC in relation to the restrictions in Section 11 of the Temporary Act. The case concerned a 14-year-old child born and raised in Sweden.¹⁴³ The Court found that her expulsion to **Lebanon** was in breach of the CRC and that it was disproportionate given the child's strong connection to Sweden.

On 17 December 2021, the Migration Court of Appeal issued another important ruling regarding the assessment of the best interest of the child.¹⁴⁴ The ruling concerned a three-year-old boy with a serious health condition. The ruling concerned the lower threshold for children under the provision of particularly distressing circumstances. At the time of the assessment by the Migration Agency and the Migration Court, the Temporary Act was still in force, and there was an additional requirement that any expulsion would also be in violation of a Swedish convention obligation. The Migration Court of Appeal in its ruling clearly set out the investigative duty of the migration authorities. In the assessment of the best interest of the child, it was concluded that it was in their best interest to stay in Sweden to receive medical care. In the proportionality assessment, the Court ruled that no other interest could be given more weight. The boy was thus granted a temporary residence permit.

As mentioned in the previous AIDA report, 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 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.¹⁴⁵

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

¹⁴⁰ Migration Agency, Rättsligt ställningstagande, *Prövning av barns bästa*, 009/2020, 24 June 2020; available at: <https://bit.ly/3KOIJEP>

¹⁴¹ Migration Agency; Rättsligt ställningstagande, *Att höra barn*, 010/2020, 24 June 2020, , available at: <https://bit.ly/3qe4Tbz>

¹⁴² Swedish Migration Agency, *Annual Report 2021*, Dnr: 1.3.2-2021-1600, page 105

¹⁴³ Migration Court of Appeal, Decision MIG 2020:24, 22 December 2020, available at: <https://bit.ly/3KSnC4m>

¹⁴⁴ Migration Court of Appeal, Decision MIG 2021:18, 17 December 2021, available at: <https://bit.ly/3tgs4Ei>

¹⁴⁵ Emma Asplund and Sophie Sjöqvist (2019). *Manligt nätverk*, available in Swedish at: <https://bit.ly/3sYZ2WO>.

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.¹⁴⁶

Regarding the restrictions imposed by the Temporary Act, GREVIO recalls the principle of non-discrimination which requires the implementation of the provisions of the Istanbul Convention without discrimination on the basis of, inter alia, migrant or refugee or other status. GREVIO urges the Swedish authorities to lift any exceptions set out in the Law on Temporary Restrictions to obtaining a residence permit in Sweden in as far as they limit women's right to a residence permit in accordance with Chapter 5, Section 3 of the Swedish Aliens Act.

The restrictions introduced by the Temporary Act ceased to exist when the new legislation entered into force in July 2021. 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.¹⁴⁷

Sweden has received a total of 41 recommendations from GREVIO and reported back to the Council on Europe on their implementation on January 27 2022.¹⁴⁸ In the report the government referred to, inter alia, the action programme for the period 2021-2023, which is included in the national strategy to prevent and combat men's violence against women. Among several proposed actions, a national competence centre regarding honour-related violence and oppression is to be established. A law proposal will be presented with the aim of introducing sheltered housing as a new form of placement in the Social Services Act (2001:453), with a licensing obligation and increased quality requirements, as well as proposals to strengthen the children's rights perspective in sheltered housing. An inquiry shall be set up to analyse whether there is a need for additional measures regarding the right to a residence permit for persons covered by the protection rule where a relationship has ended following violence on the alien, or the alien's child, or some other serious violation of their liberty.

During the year, Sweden was reviewed by the UN Committee on the Elimination of Discrimination Against Women (CEDAW). On 8 March 2021 a report concerning Sweden's compliance with CEDAW was published by the Swedish CEDAW network, consisting of 25 NGOs and coordinated by the Swedish Women's Lobby.¹⁴⁹ The CEDAW network sent a joint submission to the Committee.¹⁵⁰ Regarding asylum seeking women, the network raised concerns regarding the failings in the examination of women's grounds for asylum, for instance insufficient gender sensitive considerations when assessing the oral account and the reference to having "a male network". The CEDAW network also raised concern over the

¹⁴⁶ GREVIO, *Baseline Evaluation Report: Sweden*, 21 January 2019, available at: <https://bit.ly/3riG6lu>, 57-58.

¹⁴⁷ GREVIO, *Baseline Evaluation Report: Sweden*, 21 January 2019, available at: <https://bit.ly/3riG6lu>; 59-61.

¹⁴⁸ The Swedish Governments report on the implementation of the recommendations; available in English at <https://bit.ly/3JmeKUu>

¹⁴⁹ CEDAW-nätverket, *Kvinnor i Sverige 2021. En granskning av hur Sverige lever upp till kvinnokonventionen*, available at: <https://bit.ly/3q9E8oD>

¹⁵⁰ CEDAW- nätverket; summary in English : *WOMEN IN SWEDEN 2021 – A review of Sweden's compliance with the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)*, available at: <https://bit.ly/3KUF88q>

Migration Agency's accommodation for asylum seekers, where women have stated that they have been harassed and feel unsafe.

On 24 November 2021, the Committee published its concluding observations on the tenth periodic report of Sweden.¹⁵¹ In a general context, the Committee is concerned about the prevalence of gender-based violence against women, including domestic violence. The Committee remains concerned that the provisions of the Convention, the Optional Protocol thereto and the Committee's general recommendations are not sufficiently known in Sweden, including by women themselves. The Committee also notes with concern the continued lack of references to the Convention in court decisions in Sweden.

Questions of concern that were, *inter alia*, further highlighted by the Committee concerned the availability of specialized, inclusive and accessible shelters for women and girls who were victims of gender-based violence, taking into account their specific needs. There was also concern regarding the identification and protection of women and girls being trafficked for purposes of sexual exploitation, forced labour or forced criminal activities, and the presence of preventive measures concerning them. A further concern was the low number of investigations and prosecutions of perpetrators.

In 2020, a total of 5,801 women applied for asylum and the recognition rate for women was 34%.¹⁵² In 2021, a total of 4,216 women applied for asylum and the recognition rate for women was 38%.¹⁵³

In November 2020, RFSL published a report¹⁵⁴ 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 many authorities and organisations, including the Migration Agency, Swedish Red Cross and UNHCR, saw a need to do so.¹⁵⁵

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.

¹⁵¹ CEDAW/C/SWE/CO/10, available at: <https://bit.ly/3CNIIzo>.

¹⁵² Swedish Migration Agency, *Annual Report of 2020*, 39.

¹⁵³ Swedish Migration Agency, *Annual Report of 2021*, Dnr: 1.3.2-2022-2199, available at: <https://bit.ly/3KTSUYy>, 55.

¹⁵⁴ RFSL, *Avslagsmotiveringar i HBTQI-asylärenden*, available in Swedish, with a summary in English, here: <https://bit.ly/3fCSkIM>.

¹⁵⁵ 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>.

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.¹⁵⁶ The Migration Agency has a standard form for medical reports,¹⁵⁷ 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.¹⁵⁸

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.¹⁵⁹

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 2021 the Migration Agency published guideline notes drafted by its Legal Unit regarding medical investigations of injuries.¹⁶⁰ These guidelines are still in place. They foresee that where an asylum seeker has suffered injuries resulting from having been subjected to torture or other egregious treatment and submit a medical certificate in support, further examination should be granted at the state's expense. 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 issues; 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.

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

¹⁵⁷ Migration Agency, *Utlåtande från läkare vid prövning av hälsotillstånd i ärenden om uppehållstillstånd eller verkställighetshinder*, available in Swedish at: <https://bit.ly/2GCAwFm>.

¹⁵⁸ ECtHR, *R.C. v. Sweden*, Application No 41827/07, 9 June 2010.

¹⁵⁹ Migration Court of Appeal, MIG 2014:21, UM3739-14, 23 September 2014, available at: <http://bit.ly/2jPcQ5f>.

¹⁶⁰ Migration Agency, Rättsligt ställningstagande, Medicinska utredningar av åberopade skador, RS/022/2021, available at: <https://bit.ly/3fydJMX>.

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 position¹⁶¹. This can be done through specialist institutions and through the Swedish Red Cross Treatment Centre for persons affected by war and torture.

In September 2021, the Swedish Red Cross published their alternative report to the United Nations Committee Against Torture.¹⁶² The organisation reiterated their concerns highlighted in the above-mentioned report from 2015. During 2021, the Swedish Red Cross initiated work to support the Migration Agency with training on the effects of torture and trauma.

In December 2021, guidance for healthcare professionals meeting patients with torture experiences was published.¹⁶³

As a consequence of the ECtHR ruling in *Paposhvili v Belgium*,¹⁶⁴ 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.¹⁶⁵

As mentioned in the previous AIDA report, 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.¹⁶⁶ 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.

¹⁶¹ Migration Agency, Rättsligt ställningstagande, Medicinska utredningar av åberopade skador – RS/022/2021, available in Swedish at: <https://bit.ly/3fydJMX>.

¹⁶² Swedish Red Cross, *Alternative Report to the United Nations Committee Against Torture regarding Sweden's eighth periodic report submitted by Sweden under article 19 of the Convention pursuant to the optional reporting procedure, due in 2018*, available at: <https://bit.ly/3CMMN5K>

¹⁶³ Transkulturellt Centrum i region Stockholm och Kunskapscentrum för migration och hälsa i region Skåne, *Identifiera, utreda och behandla tortyrskador Handledning för vårdpersonal som möter patienter med tortyrerfarenheter*, December 2021, available at: <https://bit.ly/3CNllzo>

¹⁶⁴ ECtHR, *Paposhvili v. Belgium*, Application No 41738/10, Judgment of 13 December 2016, EDAL, available at: <https://bit.ly/2UR2eXM>.

¹⁶⁵ 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>.

¹⁶⁶ UN Committee on the Rights of Persons with Disabilities, *Decision on Communication no. 60/2019*, September 2020, available at: <https://bit.ly/3uPW3BM>, 24.

On 6 September 2021, the UN Committee on the Rights of Persons with Disabilities (CRPD) published a decision in another case litigated by the Swedish Refugee Law Center.¹⁶⁷ This time, too, the criticism concerned Sweden's assessment of mental illness in the asylum process. The case concerned a man from Afghanistan with severe mental illness. The CRPD did not consider that Sweden had sufficiently investigated whether the man could actually access care in Afghanistan. Another important part of the criticism that the CRPD makes against Sweden concerned the assessment of the seriousness of the man's health condition. The Committee considered that the Swedish authorities' assessment that the risk of suicide was linked to the asylum process had taken too much precedence in the Swedish process. The CRPD found that Sweden had failed to fulfil its obligations under Article 15 of the Convention on the Rights of Persons with Disabilities.

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.¹⁶⁸

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.

On 18 July 2019, the Government assigned an inquiry to review the regulations concerning legal guardians and trustees. In May 2021, the inquiry proposed, among other things, mandatory introduction and in-depth training for legal guardians and trustees, as well as better governance and supervision. It was also proposed that a new government agency would have primary responsibility in this area.¹⁶⁹

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

¹⁶⁷ UN Committee on the Rights of Persons with Disabilities, *Decision on Communication no. 58/2019*, September 2021, available at <https://bit.ly/3wfOKGG>

¹⁶⁸ Lag (2005:429) om god man för ensamkommande barn, available at: <http://bit.ly/2CP4Pnq>.

¹⁶⁹ Swedish Government Official Report (2021) SOU 2021:36, *Ställföreträdarutredningen, Gode män och förvaltare – en översyn*. Available at: <https://bit.ly/3Jj8zk4A>

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.¹⁷⁰

The number of unaccompanied minors seeking asylum has plummeted from around 34,000 in 2015 to 500 in 2020 and 507 in 2021.¹⁷¹

| Country of origin | Number of applicants |
|-------------------|----------------------|
| Syria | 117 |
| Afghanistan | 156 |
| Somalia | 59 |
| Morocco | 44 |
| Eritrea | 19 |
| Other | 112 |
| Total | 507 |

Source: Swedish Migration Agency, *Inkomna ansökningar om asyl*, 2021, available in Swedish at: <https://bit.ly/3u9qGCJ>.

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 | Yes, if protection grounds are raised | |
| ❖ At the appeal stage | Subject to decision by the Court, and pending such decision | |
| 3. Is a removal order suspended during the examination of a second, third, subsequent application? | | |
| ❖ At first instance | Yes, if protection grounds are 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,¹⁷² or, if such a permit cannot be granted, lead to a re-examination of the initial case.¹⁷³

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];¹⁷⁴

¹⁷⁰ Administrative Court of Gothenburg, Decision 4737-15, 28 June 2016.

¹⁷¹ Migration Agency, Annual Report 2021, Dnr: 1.3.2-2022-2199, p. 56, available at: <https://bit.ly/3KTSUYy>

¹⁷² Ch. 12, Section 18 Aliens Act.

¹⁷³ Ch. 12, Section 19 Aliens Act.

¹⁷⁴ Ch. 12, Sections 1-2 Aliens Act.

- (2) there is reason to assume that the intended country of return will not be willing to accept the alien;
or
- (3) there are medical or other special grounds why the order should not be enforced”.

The Migration Agency may grant a temporary residence permit or order the suspension of the removal order. Where the impediment is of a “lasting nature”, the applicant has resided in Sweden for three years and some other criteria are also fulfilled, however, a permanent residence permit may be granted.¹⁷⁵ 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]”;¹⁷⁶ 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 2019.¹⁷⁷ The Court concluded that if it is considered that there 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.¹⁷⁸

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

¹⁷⁵ Ch. 12, Section 18 - 18a Aliens Act.

¹⁷⁶ Ch. 12, Sections 1-2 Aliens Act.

¹⁷⁷ Migration Court of Appeal, UM 12194-18, MIG 2019:5, 10 April 2019, available at: <https://bit.ly/3rWG1DG>

¹⁷⁸ Ch. 12, Section 19 Aliens Act.

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 2021, a total of 11,703 subsequent applications were submitted and the Migration Agency decided on 11,277 subsequent applications. Out of them, 803 subsequent applications resulted in a residence permit being granted, and 991 subsequent applications was admitted for re-examination.. The main countries of origin of applicants lodging a subsequent application were **Afghanistan** (2,635); **Iraq** (1,455); **Iran** (496); stateless (454) and **Ethiopia** (416).¹⁷⁹

On 30 November 2021 the Migration Agency published a legal instruction on Afghanistan due to the Taliban takeover. The Agency considers that the general situation in Afghanistan after the Taliban takeover and the implementation of Sharia law amounts to new circumstances that will in most cases meet the criteria for the Migration Agency to grant re-examination.¹⁸⁰ 575 subsequent applications from Afghan nationals was made in the first month of 2022 alone.¹⁸¹ Most decisions on subsequent applications submitted by Afghan nationals after the legal instruction dated 30 November 2021 were admitted for re-examination; however the processing time varied considerably from case to case.

F. The safe country concepts

| Indicators: Safe Country Concepts | | | |
|-----------------------------------|---|-----|----|
| 1. | Does national legislation allow for the use of “safe country of origin” concept? | Yes | No |
| | ❖ Is there a national list of safe countries of origin? | Yes | No |
| | ❖ Is the safe country of origin concept used in practice? | Yes | No |
| 2. | Does national legislation allow for the use of “safe third country” concept? | Yes | No |
| | ❖ Is the safe third country concept used in practice? | Yes | No |
| 3. | Does national legislation allow for the use of “first country of asylum” concept? | Yes | No |

1. Safe country of origin

In May 2021, Sweden implemented the APD’s provision regarding safe countries of origin in its national legislation. The legislation process was initiated after the CJEU judgement *A v Migrationsverket* in July 2018. In the judgement, the CJEU stated that the Migration Agency cannot reject an application as manifestly unfounded with reference to COI stating that the asylum seeker is able to seek state protection, without implementing the provisions regarding safe countries of origin. On 19 June 2019, the government

¹⁷⁹ Information provided by the Migration Agency’s statistics unit.

¹⁸⁰ Migrationsverket, *Rättsligt ställningstagande. Prövning av skyddsbehov för medborgare från Afghanistan - RS/089/2021, 2021-11-30*

¹⁸¹ Information provided by the Migration Agency’s statistics unit.

ordered an investigation regarding the possibility of introducing 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.¹⁸² On 1 May 2021, the proposed legislation regarding safe countries of origin came into force.

List of safe countries of origin

The Swedish Migration Agency is responsible for establishing the national list of safe countries of origin. On 25 May 2021, the Swedish Migration Agency published a provision ("föreskrift") designating the following countries as safe countries of origin:¹⁸³

- Bosnia and Herzegovina
- Georgia
- Mongolia
- Albania
- Chile
- Kosovo
- North Macedonia
- Serbia

The same day the list was published, the Swedish Migration Agency also published new guidelines regarding immediately enforceable returns, including the concept of safe countries of origin.¹⁸⁴ The Swedish Migration Agency also published country information reports for all countries on the national list. The country information reports are relatively short and provide general information about the country in question. A description of the human rights situation and the ability to enjoy state protection in each country is also made. The reports do not provide specific information about how the Swedish Migration Agency made the actual assessment to designate the country in question as safe. No references to the criteria set out in the revised Asylum Procedure Directive are made in the reports.

Application of the concept of safe country of origin

The new Swedish legislation gives the Swedish Migration Agency increased possibilities to use accelerated procedures for asylum seekers from countries on the list. According to the Swedish legislation, the Swedish Migration Agency can expel an asylum seeker who has travelled from a safe country of origin with immediate enforcement, if the asylum application is considered to be manifestly unfounded after an individual assessment. In order to use immediate enforcement, it must also be clear that a residence permit cannot be granted on any other grounds, such as humanitarian reasons or family ties in Sweden. According to Swedish case law, the assessment must be clear and made without more detailed consideration.¹⁸⁵

A decision to reject an application for a residence permit from an asylum seeker from a safe country of origin can be appealed to the Migration Court and onwards to the Migration Court of Appeal. In an appeal process, the migration courts can grant the asylum seeker a residence permit if it is determined that the country of origin is not safe for the individual in question. The Migration Court can also amend expulsion decisions from being immediately enforceable to regular, if it is determined that the criteria for immediate enforcement are not met. A court decision to merely amend the expulsion decision does not necessarily mean that a residence permit will be granted, just that the decision is not immediately enforceable.

¹⁸² 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>.

¹⁸³ Swedish Migration Agency. Migrationsverkets föreskrifter om förteckning över säkra ursprungsländer, MIGRFS 2021:4. Available in Swedish here: <https://bit.ly/3qN1h19>

¹⁸⁴ Swedish Migration Agency. Rättsligt ställningstagande RS/071/2021. Avvisning med omedelbar verkställighet till hemlandet inklusive säkra ursprungsländer. Available in Swedish here: <https://bit.ly/33UJbky>

¹⁸⁵ See for example Migration Court Of Appeal case no MIG 2006:7, MIG 2010:22 and MIG 2014:22

Decisions from the SMA to include a specific country on the list of safe countries cannot, however, be appealed.

The Swedish Migration Agency considers that public counsel, as a main rule, should not be appointed when processing asylum applications from safe countries of origin. However, exceptions can be made for people who face special difficulties in exercising their rights.¹⁸⁶ Asylum seekers from safe countries of origin do not usually have the right to work in Sweden while their asylum applications are being processed.

According to a study carried out by The Swedish Refugee Law Center with support from UNHCR¹⁸⁷, 37 decisions with immediate enforcement were made regarding asylum seekers from countries on the list during the first three months after its introduction. During the period under review, decisions with immediate enforcement were made regarding asylum-seekers from four of the countries on the Swedish list of safe countries of origin. Those countries were Georgia (18 decisions), Mongolia (9 decisions), Albania (6 decisions) and Serbia (4 decisions). In the study, 12 of the decisions concerned families with children. A total of 22 children were affected by decisions with immediate enforcement.

In the study, questions were raised about whether the asylum seekers in all cases had had a real chance to rebut the presumption that the country in question was safe. Concerns were also raised since the threshold for considering an application as manifestly unfounded seemed to be lower in cases regarding safe countries of origin than what follows from previous Swedish case-law. It was also noted that public counsel was appointed only in very few cases and that the assessment of children's own reasons for entitlement to a residence permit, and the best interest of the child, were very standardized in many cases.

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.

In a legal opinion issued in April 2021 the Migration Agency provides details on the application of the safe third country concept. The opinion details that the possibility of applying for refugee status in a third country should not only exist formally but also be observed in practice. Accordingly, the country must fulfil

¹⁸⁶ Swedish Migration Agency. Rättsligt ställningstagande RS/071/2021. Avvisning med omedelbar verkställighet till hemlandet inklusive säkra ursprungsländer p. 12-13. Available in Swedish here: <https://bit.ly/33UJbky>

¹⁸⁷ Swedish Refugee law Center. *Rättsäkerheten och säkra ursprungsländer*. Available here in Swedish with an English summary: <https://bit.ly/33Ugch5>

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.¹⁸⁸

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:¹⁸⁹

- (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.

3. First country of asylum

The concept of first country of asylum is a ground for inadmissibility (see [Admissibility Procedure](#)).¹⁹⁰ 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 April 2021 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.¹⁹¹

¹⁸⁸ Migration Agency, *Rättsligt ställningstagande angående avvisning av ansökan om uppehållstillstånd med stöd av 5 kap. 1 b § utlänningslagen*, RS/065/2021, 23 April 2021, available in Swedish at: <https://bit.ly/3400RM0>, 10.

¹⁸⁹ 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>.

¹⁹⁰ Ch. 5, Section 1b(2) Aliens Act.

¹⁹¹ Migration Agency, *Rättsligt ställningstagande angående avvisning av ansökan om uppehållstillstånd med stöd av 5 kap. 1 b § utlänningslagen*, RS/065/2021, 23 April 2021, 8 et sec, available in Swedish at <https://bit.ly/3400RM0>

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.¹⁹² 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,¹⁹³ 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.¹⁹⁴ 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.¹⁹⁵ 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).¹⁹⁶

The Migration Agency has held web events on Facebook or other platforms where applicants or the public may ask their questions to experts from the Migration Agency.

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,¹⁹⁷ as well as on Dublin procedures followed after a country other than Sweden has been deemed responsible.¹⁹⁸ There is also a specific leaflet for unaccompanied minors regarding the Dublin Regulation, as per Article 4(3) of the Dublin III Regulation.¹⁹⁹

¹⁹² Section 2a Ordinance on the reception of asylum seekers.

¹⁹³ Migration Agency, *Protection and Asylum in Sweden*, available at: <http://bit.ly/1sHzLfA>.

¹⁹⁴ Migration Agency, *For Children*, available at: <http://bit.ly/1Feg3vm>.

¹⁹⁵ Migration Agency, *Alla filmer på alla språk*, available at: <https://bit.ly/2W4Axay>.

¹⁹⁶ Migration Agency, *Other languages*, available at: <https://bit.ly/2vkhMnH>.

¹⁹⁷ Migration Agency, *"I have asked for asylum in the EU – which country will handle my claim?"*, available at: <http://bit.ly/1PSuhgz>.

¹⁹⁸ Migration Agency, *"I am in the Dublin procedure – what does this mean?"*, available at: <http://bit.ly/1LRjmgH>.

¹⁹⁹ 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/3clm8eS>. 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.

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 to discuss their situation and to be provided with information on the possible future outcomes of their case.

Due to a significant increase in the number of questions received by e-mail there has been a long waiting period for a reply from the Migration Agency. According to the Migration Agency, the questions received often relate to the regulations concerning Covid-19, the legislative changes that came into force on 20 July 2021, and the situation for Afghan asylum seekers due to the developments in Afghanistan.²⁰⁰

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.²⁰¹ 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.

It should be further noted that the Migration Agency produced specific materials to inform asylum seekers about the impact of COVID-19 on the asylum procedure.²⁰²

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.

²⁰⁰ On 4 December Swedish Public Radio reported that at that time the Migration Agency had more than 20 000 unanswered e-mails. <https://bit.ly/3F43SaP>

²⁰¹ 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>.

²⁰² Migration Agency, *Information for those seeking asylum in Sweden after 6 February*, available here: <https://bit.ly/3bPzioz>.

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](#).

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.²⁰³ 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.

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? ²⁰⁴ | Yes | No |
| ❖ If yes, specify which: | Bosnia and Herzegovina, Georgia, Mongolia, Albania, Chile, Kosovo, North Macedonia, Serbia | |

In 2021 the number of first-time asylum applications was 11,412, a decrease from 12,991 in 2020 and considerably lower than in 2019, when there were 21,958 registered applications. In 2021, out of the total number of applicants, 1,491 came from Afghanistan (a notable increase from 593 in 2020), 1,274 came from Syria, 934 came from Iraq, 523 from Ukraine, 492 from Turkey, 456 from Somalia, and 406 from Eritrea.

At first instance, the recognition rates in cases decided on the merits was 32% in 2021, compared to 25% in 2020 and 35% in 2019 : The recognition rates for major countries of origin were as follows: 62% (338) for Afghans, up from 46% in 2020, 85% (768) for Syrians, up from 76% in 2020, 82% (284) for Eritreans, up from 78 % in 2020, 57% (175) for stateless persons, up from 41%, and 40% (136) for Somalians, down from 41% in 2020. As regards second instance, the Migration Court approved 7% of appeals, which is the same rate as in 2020.

In 2020 there was a significant decrease in the recognition rate for **Syrians** as a result of a change in the Migration Agency's assessment of the security situation in the country. In 2021, the Migration Agency continued to consider 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

²⁰³ See: <http://www.sef-riks.se/> and <http://ensamkommandesforbund.se/>.

²⁰⁴ Whether under the "safe country of origin" concept or otherwise.

can be considered as significant and non-temporary in nature in the context of cessation.²⁰⁵ In early 2021, the Migration Agency changed its position regarding refugee claims from Syria based on risks due to military service, as an adjustment to the CJEU case *EZ v. Germany*, meaning refugee status in general was granted to those who would be enrolled in military services.²⁰⁶

On 16 July 2021, The Swedish Migration Agency decided to halt all enforcement of deportations to Afghanistan and on 23 July 2021 to suspend decision-making in general in asylum cases concerning Afghans, following the Taliban regime take-over and the subsequent uncertainty regarding how the situation would develop, and the lack of country of origin information. However, the Swedish Migration Agency did grant refugee status and residence permits in some clear cases after this date. On 30 November 2021, the Migration Agency decided to lift the suspension of asylum decisions and stated that in general, Afghans with a deportation order would be entitled to a new examination of their protection claims.²⁰⁷

Applicants from countries with a recognition rate below 15% are presumed to have their cases treated under the accelerated procedure ("Track 4B") even if case are individually assessed before being placed in this procedure. The countries currently listed are: Albania, Armenia, Algeria, Angola, Belarus, Bolivia, Bosnia and Herzegovina, Brazil, Chile, Colombia, Cuba, Georgia, Ghana, Honduras, India, Israel, Kazakhstan, Kyrgyzstan, Kosovo, Mexico, Morocco, Moldavia, Mongolia, Montenegro, Mozambique, Nepal, North Macedonia, Peru, Serbia, Sri Lanka, South Africa, Thailand, The Philippines, Tunisia, Ukraine, USA, Uzbekistan, Venezuela and Vietnam (see section on [Accelerated Procedure](#)).

²⁰⁵ 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>.

²⁰⁶ Migration Agency, *Rättsligt ställningstagande. Prövningen av skyddsbehov för personer från Syrien - RS/022/2020 (version 3.0)*, available in Swedish at: <https://bit.ly/3JPrp2R>.

²⁰⁷ Migration Agency, *Information regarding the situation in Afghanistan*, available at <https://bit.ly/3eYg9mn>.

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 in most cases 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 centre 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.²⁰⁸

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.²⁰⁹

Following the decision by the SMA on 16 July 2021 to temporarily stop all deportations to Afghanistan following the Taliban take-over, many Afghans with enforceable expulsion decisions were able to apply for individual decisions to temporarily stop their expulsions, and following that to regain financial support and accommodation. However, this resulted in a situation where many could not regain such support, including Afghans who had submitted subsequent applications but were not yet granted a re-examination, Afghans whose applications for extending residence permits for upper-secondary education or work rejected, Dublin returnees and others who simply lacked information on how to apply. This was widely criticized by civil society organisations.²¹⁰

²⁰⁸ Migration Agency, *Bosättning i en kommun*, available in Swedish at: <https://bit.ly/3dz7Exd>.

²⁰⁹ See also: Migration Agency, *Accommodation*, available at: <https://bit.ly/3asgrQ2>.

²¹⁰ See for example Swedish Refugee Law Center, *Ge afghaner tillfälligt uppehållstillstånd*, available at: <https://bit.ly/3wnkJnP>.

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 | Yes | Reduced material conditions | No |
| ❖ Dublin procedure | Yes | Reduced material conditions | No |
| ❖ Admissibility procedure | Yes | Reduced material conditions | No |
| ❖ Accelerated procedure | Yes | Reduced material conditions | No |
| ❖ First appeal | Yes | Reduced material conditions | No |
| ❖ Onward appeal | Yes | Reduced material conditions | No |
| ❖ Subsequent application | Yes | Reduced material conditions | No |
| 2. Is there a requirement in the law that only asylum seekers who lack resources are entitled to material reception conditions? | Yes | | No |

In Sweden, all asylum applicants have access to the benefits of the reception system, granting them the ability 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.²¹¹

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.²¹²

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.²¹³ 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.²¹⁴

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).²¹⁵ If subsequent applicants

²¹¹ Section 17, Law on Reception of Asylum Seekers and Others, 1994:137.

²¹² Section 15, Law on Reception of Asylum Seekers and Others, 1994:137.

²¹³ Sections 11-12a, Law on Reception of Asylum Seekers and Others, 1994:137.

²¹⁴ Sections 11, Law on Reception of Asylum Seekers and Others, 1994:137.

²¹⁵ 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).

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.²¹⁶

Reception conditions were not restricted as a result of COVID-19. The Migration Agency maintained the ability to apply for asylum and subsequently to access the reception system.

In 2020, new rules were implemented for asylum-seekers who choose to settle in so-called socio-economically challenged areas. These persons are no longer entitled to a daily allowance.²¹⁷ The aim with this measure was to combat segregation and encourage more asylum-seekers to settle in areas with better prospects. Municipalities can report if certain areas or the whole municipality is “socio-economically” challenged. The Country Administrative Boards decide which areas may be considered as “socio-economically challenged”.²¹⁸ The legislation covers 32 municipalities.²¹⁹

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”. In 2021, X asylum seekers settled in such areas.²²⁰

On 11 January 2021 the Swedish Government announced that it planned to end altogether the opportunity for asylum seekers to choose and arrange their own accommodation. The aim is to reduce segregation. The details of the proposal are not yet decided, but an asylum seeker that refuses to stay in the Agency-appointed accommodation may lose his or her daily allowance.²²¹

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 2021 (in original currency and in €): 2,130 SEK / €206.02

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.²²² 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](#)

²¹⁶ 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>.

²¹⁷ Section 10a, Law on Reception of Asylum Seekers and Others, 1994:137

²¹⁸ 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>.

²¹⁹ Förordning (2018:151) om statsbidrag till kommuner med socioekonomiskt eftersatta områden Svensk författningssamling 2018:2018:151 t.o.m. SFS 2020:1266 - Riksdagen, <https://bit.ly/3MydU8D>

²²⁰ SVT, *Migrationsverket ser ingen tydlig effekt av nya ebo-lagen*, available in Swedish at: <https://bit.ly/3k1cCW7>.

²²¹ Avveckling av EBO för att minska segregationen – available at <https://bit.ly/3NFzpVp>

²²² Migration Agency, Housing for asylum-seekers, available in Swedish at: <https://bit.ly/3fquSpf>.

(“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.²²³ On 23 September 2021 the Swedish Government agreed on updated regulations regarding the distribution of newly arrived persons which entered into force on 1 January 2022.²²⁴ 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.

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 2021 are as follows:²²⁵

| 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 |

²²³ Lag (2016:38) om mottagande av vissa nyanlända invandrare för bosättning, Official Journal 2016:38.

²²⁴ Regeringen beslutar om länstal för 2022 – available at: <https://bit.ly/3yM8jr6>

²²⁵ Migration Agency, *Financial support for asylum seekers*, available in Swedish at: <https://bit.ly/2O4bepZ>.

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 2022 illustrates this difference:

| Category | Asylum seekers | Settled persons on social welfare |
|---|----------------------|-----------------------------------|
| Single adult | 2,130 SEK / €210.03 | 4,250 SEK / €419.13 |
| 2 adults | 3,660 SEK / € 360.90 | 6,950 SEK / €685.40 |
| 1 adult 1 child (aged 2) | 3,240 SEK / €319.48 | 6,840 SEK / €674.56 |
| 1 adult 2 children (aged 2-5) | 4,530 SEK / €446.70 | 9,620 SEK / €948.72 |
| 2 adults 2 children (aged 5-12) | 6,160 SEK / €607.44 | 13,500 SEK / €1,331.36 |
| 2 adults 3 children (aged 2-5-12) | 7,020 SEK / €692.24 | 16,230 SEK / €1,600.59 |
| 2 adults 4 children (aged 12-14-15-17) | 8,160 SEK / €804.69 | 23,180 SEK / €2,286.00 |

Sources: National Social Welfare Board, 1 January 2022; 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.²²⁶ 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

²²⁶ Section 10, Law on Reception of Asylum Seekers and Others, 1994:137.

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.²²⁷ In 2021, there were 25,062 persons with legally enforceable removal orders registered with the Migration Agency and who had not absconded in this situation.²²⁸ 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/4.1414 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.²²⁹ 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 a 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.²³⁰

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.²³¹

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.²³²

On 3 May 2021, the Supreme Administrative Court decided on 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. The court ruled in the affirmative.²³³

²²⁷ Section 11, Law on Reception of Asylum Seekers and Others, 1994:137.

²²⁸ Migration Agency, *Monthly statistical report for December 2021, including year-end numbers*, DNR: 1.1.1.2-2021-2118

²²⁹ Section 22, Law on Reception of Asylum Seekers and Others, 1994:137.

²³⁰ Högsta Förvaltningsdomstolens Dom, Decision 1527–1529-16, 5 June 2017, available in Swedish at: <http://bit.ly/2Tsq9HD>.

²³¹ Högsta Förvaltningsdomstolens Dom, Decision 4464-17 and 6418-17, 11 June 2018, available in Swedish at: <http://bit.ly/2JBZk3P>.

²³² Administrative Court of Appeal of Stockholm, UM 4419-19.

²³³ Supreme Administrative Court, HFD 2021:4, Mål: 4234-20 - Högsta förvaltningsdomstolen, available at: <https://bit.ly/3Lr0ZnF>.

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. Asylum seekers are in many cases forced to relocate to reception centres in other cities.

B. Housing

1. Types of accommodation

Indicators: Types of Accommodation²³⁴

- | | |
|--|---------------|
| 1. Number of municipalities with reception centres: ²³⁵ | Not available |
| 2. Total number of places in reception centres: | 14,810 |
| 3. Total number of persons in reception centres: | 9,708 |
| 4. Total number of persons in private accommodation: | 15,083 |
| 5. Total number of persons in other forms of accommodation: ²³⁶ | 1,975 |
| 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.

Should the asylum seeker choose to settle in so-called socio-economically challenged areas, the rules foresee that these persons are no longer entitled to a daily allowance.²³⁷

The total number of asylum seekers registered in the reception system at the end of 2021 was 23,353 (down from 30,634 in 2020), of which 8,694 were living in Migration Agency accommodation, 13,932 in private accommodation and 727 in other forms of accommodation.²³⁸

²³⁴ Average numbers for 2021, Migration Agency, *Annual Report 2021*, available in Swedish at: <https://bit.ly/3lkny2R>

²³⁵ Both permanent and for first arrivals. This refers to the number of municipalities where the Migration Agency rents flats or other accommodation.

²³⁶ This includes privately placed unaccompanied minors, youth in care arrangements, persons in criminal detention and others.

²³⁷ Section 10a, Law on Reception of Asylum Seekers and Others, 1994:137

²³⁸ Migration Agency, Monthly Statistical Report, December 2021.

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 24,844 in 2019 to 20,575 in 2020 and to 14,810 in 2021.²³⁹ 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 have been forced to move and enter new schools which adds obstacles to their education.²⁴⁰

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.²⁴¹

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? | 837 days ²⁴² | |
| 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.²⁴³ In 2020, the Swedish Church also reported that women are especially vulnerable and subjected to sexual harassment and assault.²⁴⁴

²³⁹ Migration Agency, Annual Report 2021, p. 61, available in Swedish at: <https://bit.ly/3wyZvIL>

²⁴⁰ FRA. *Migration: Key Fundamental Rights Concerns. Quarterly Bulletin*, November 2020, available at: <https://bit.ly/36BeJug>, 30

²⁴¹ Migration Agency, *Annual Report 2020*, available in Swedish at: <https://bit.ly/2Ngcrum>, 48.

²⁴² Migration Agency, *Monthly statistical report for December 2021*, including year-end numbers, 27.

²⁴³ BRÅ, *Brott och brottsutsatthet på kollektiva asylboenden under 2018*, available at: <https://bit.ly/39KzXbc>.

²⁴⁴ FRA, *Migration: Key Fundamental Rights Concerns. Quarterly Bulletin*, November 2020, available at: <https://bit.ly/36BeJug>, 27.

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 2021, as well as 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. The last restrictions were lifted in February 2022.

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:

| Average duration of stay in reception system: 2021 | |
|---|---------------------|
| Category of applicant | Average stay (days) |
| Persons returning voluntarily | 743 |
| Persons forcibly removed | 1,169 |
| Persons absconding | 782 |
| Persons granted permits referred to municipalities | 719 |
| Persons granted permits arranging other accommodation | 869 |
| Total average | 837 |

Source: Migration Agency, *Monthly Statistical Report*, December 2021.

C. Employment and education

1. Access to the labour market

Indicators: Access to the Labour Market

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

Asylum seekers 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. The right ends when the applicant leaves Sweden, 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.²⁴⁵

In 2020, 9,527 asylum-seekers were granted the right to seek work.²⁴⁶ An updated number for 2021 was not available at the time of writing.

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 to offer internships and work experience will have no authority as counterpart.²⁴⁷ 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 8,3% in 2020.²⁴⁸ The situation did not improve in 2021, as the general unemployment rate further increased to 8.8%.²⁴⁹

²⁴⁵ Migration Agency, *Handbok i Migrationsrätt*, section AT-UND, 5.

²⁴⁶ Information provided by the Swedish Migration Agency.

²⁴⁷ SKL, 'Migrationsverkets ansvar för praktik för asylsökande upphör', 21 December 2016, available in Swedish at: <http://bit.ly/2FBUIde>.

²⁴⁸ The Government Agency Statistics Sweden, available in Swedish at: <http://bit.ly/2v5GWdu>.

²⁴⁹ SCB, *Arbetslöshet i Sverige*, available in Swedish at: <https://bit.ly/3toSBwX>.

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.²⁵⁰

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.²⁵¹

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 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.²⁵²

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

²⁵⁰ Chapter 5 Section 15 a Aliens Act, Chapter 4 Section 4 a Aliens Ordinance.

²⁵¹ Swedish Parliament, *Betänkande 2012/13:UbU12 Utbildning för barn som vistas i landet utan tillstånd*, available at: <http://bit.ly/1GfU4uO>.

²⁵² Skolverket, *Nyanländas rätt till utbildning*, available in Swedish at: <https://bit.ly/39JXuZK>.

studies.²⁵³ 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 25.²⁵⁴

There have been criticisms pointing out that very few people match all criteria to be granted residence permit on this ground.²⁵⁵ 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. Those who met the criteria in the new provisions were able to re-apply for a residence permit between 1 July 2018 and 30 September 2018.²⁵⁶ By August 2019, 7,303 persons were granted residence permits based on this provision.²⁵⁷ This specific provision was only in force for a limited period. For that reason, no new residence permits can now be granted based on this provision further to first-time applications.

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.

²⁵³ Migration Agency, 'Frågor och svar om uppehållstillstånd för gymnasie studier', available in Swedish at: <https://bit.ly/2GnP211>.

²⁵⁴ Swedish Refugee Law Center, *Kan jag få uppehållstillstånd enligt gymnasielagen*, available in Swedish at: <https://bit.ly/3ufHZQW>.

²⁵⁵ Swedish Television, 'Migrationsverket: "Gymnasielagen ingen räddning', 6 October 2017, available in Swedish at: <http://bit.ly/2GpkjBC>.

²⁵⁶ Section 16 f, Law on temporary limitations to the possibility of being granted a residence permit in Sweden.

²⁵⁷ 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 a free medical examination, emergency health care and urgent medical or dental care that cannot be “postponed” (“vård som inte kan anstå”). They are also entitled to gynaecological and prenatal care, including health care on the occasion of childbirth, as well as health care in accordance with the Swedish Communicable Diseases Act (smittskyddslagen).²⁵⁸

Children and teenage asylum seekers under the age of 18 are entitled to the same health care as all other children living in the county council area where they are seeking treatment.²⁵⁹

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

Should there be a need for health care beyond the free medical examination, mentioned above, patient fees (co-aids) may differ depending on the county council, region and type of care involved. But in general asylum seekers pay 50 SEK (€4.60) 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 40 SEK (€3.70). Gynaecological and prenatal care, including health care on the occasion of childbirth, as well as health care in accordance with the Swedish Communicable Diseases Act is free of charge. The fee for emergency care at a hospital varies from county to county. Asylum seekers pay no more than 50 SEK (€4.60) for prescription drugs. Children are in most cases entitled to health care free of charge until they turn 18 years old. Dental care is free of charge for children until they turn 23 years old. However, there may be a patient fee (co-aids) for emergency care for children in some of the regions.²⁶⁰

If an asylum seeker pays more than 400 SEK (€37.00) for visits to a doctor, 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. The cost of emergency medical or dental care is not covered.²⁶¹

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. Persons in that situation are entitled to the health care mentioned above, but the Migration Agency does not provide any financial assistance for health care or medicine.

²⁵⁸ Section 6 of Law (2008:344) on health care for asylum seekers etc. (lag (2008:344) om hälso- och sjukvård åt asylsökande m.fl.) section 7 of 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), chapter 7, section 3 of The Communicable Diseases Act (2004:168) (Smittskyddslagen (2004:168))

²⁵⁹ 1177 Vårdguiden, ‘Healthcare in Sweden for asylum-seekers, people with no papers and people in hiding’, available at: <http://bit.ly/2GoMC3k>.

²⁶⁰ *Ibid*

²⁶¹ Migration Agency, ‘Fees for medical care’, available at: <https://bit.ly/37Y350F>.

A study conducted by the Swedish Red Cross revealed that although persons who stay in Sweden beyond 4 weeks after the date when their expulsion order gained legal force are entitled to (some) health care, there may be a number of practical obstacles on an individual basis. These might include the fear of authorities and a lack of knowledge about the duty of confidentiality these persons may have. The study also highlights the lack of knowledge on the part of healthcare staff about the laws on this matter as an obstacle for these persons to actually get the health care they are entitled to.²⁶²

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 2017, an issue that persisted up until 2020 as six suicides and three suicide attempts were recorded during that year.²⁶³ 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 2021, 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 have been and will continue to 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 guidelines and procedures for the reception of vulnerable asylum seekers. Examples of groups of asylum seekers who might be in need of special measures mentioned are, with reference to Article 21 of the recast Reception Conditions Directive: minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children, victims of human trafficking, persons with mental disorders and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence, such as victims of female genital mutilation.²⁶⁴

The procedure for measures for asylum seekers with special needs sets out that accommodation shall be adapted to the individual needs of the asylum seeker. If the asylum seeker has special needs, the accommodation shall be adapted accordingly. There might be a need to provide accommodation outside of the Migration Agency's usual accommodation. A first screening shall be made at the time of application, but since the conditions might change over time, the identification and facilitation of special needs shall

²⁶² Swedish Red Cross, *Nedslag i verkligheten – tillgång till vård för papperslösa*, 2018, available at: <https://bit.ly/3Px1nnE>.

²⁶³ EvaMärta Granqvist och Joel Larsson. *Find a humane solution for Sweden's unaccompanied young people – now!*, October 2020, available at: <https://bit.ly/3ugPWpB>.

²⁶⁴ Migration Agency, *Rutin: Ta ställning till särskilda behov, initialt*.

be made throughout the asylum procedure. Examples of special accommodation include ground-level apartments without thresholds, accommodation in the proximity of e.g. sign language interpreters and special schools, in the proximity of necessary specialised care or treatments, or a separate room or apartment due to mental disorders.²⁶⁵

In the case of an asylum seeker who has been subjected to or is at risk of harassment due to any of the grounds of discrimination (gender, gender identity and gender expression, sexual orientation, disability, ethnicity, religion or other belief, or age), placement in secure housing should be considered. The purpose of safe housing is to offer housing close to identity-creating networks and social contexts. This may, for example, apply to an asylum seeker who is vulnerable due to sexual orientation and needs access to such networks.²⁶⁶

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.²⁶⁷

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 (DO). Between 2009 and 2020, a total of 17 complaints from asylum seekers

²⁶⁵ Migration Agency, *Rutin: Insatser för asylsökande med särskilda behov*.

²⁶⁶ Migration Agency, *Rutin: Insatser för asylsökande med särskilda behov*.

²⁶⁷ Information provided by the Swedish Migration Agency.

regarding their accommodation have been addressed to the Discrimination Ombudsman. However, none of these complaints lead to any further investigation.²⁶⁸ No complaints against the Migration Agency regarding discrimination based on sexual orientation were registered in 2021.²⁶⁹

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.

Asylum seekers who declare their LGBTQI identity as a reason for asylum are offered a place in the Migration Agency's temporary housing. For each person an individual needs assessment is carried out, for example whether they require their own apartment, access to networks and medical care. An LGBTQI perspective is integrated into the social information that asylum seekers are initially provided with in the asylum process.²⁷⁰

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 cooperation between the Migration Agency with Västerviks folkhögskola, a Folk High School in **Leksand** to accommodate deaf asylum seekers.²⁷¹ 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 2021, a total of 4,219 women applied for asylum.²⁷² Throughout the year, a total average of 10,092 women were registered in the reception system, out of which 41% were listed in housing under the Swedish migration Agency, 54% are in private housing, and 4% in other housing.²⁷³

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.²⁷⁴ 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

²⁶⁸ Diskrimineringsombudsmannen. Information provided upon request in February 2020.

²⁶⁹ Information provided by Diskrimineringsombudsmannen via email in March 2022.

²⁷⁰ Migration Agency, *Annual Report 2021*, p. 106.

²⁷¹ Västerviks folkhögskola, *Mottagande av asylsökande*, available in Swedish at: <https://bit.ly/39YGvWa>.

²⁷² Swedish Migration Agency, <https://bit.ly/3LtRPXk>.

²⁷³ Swedish Migration Agency, *Annual Report of 2021*, p. 60.

²⁷⁴ GREVIO, *Baseline Evaluation Report: Sweden*, 21 January 2019, available at: <https://bit.ly/3riG6lu>.

were killed since 2015. There is an overall lack 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.

The Migration Agency has developed a routine which provides guidelines for protected housing for those asylum seekers who have been subjected to, or threatened with, violence.²⁷⁵ The guidelines describe that if the asylum seeker, following an investigation, needs help to increase security in his/her accommodation, measures shall be taken in the following order (the measures can also be combined, and an individual assessment must always be made):

- Move to construction housing if the alien lives in his/her own housing.
- New accommodation within the same unit, but not together with the perpetrator (if this is, for example, spouse / partner / family / relatives).
- New accommodation in another location.
- New accommodation at another reception unit.
- Privately marked address.
- Sheltered housing provided by local municipalities.

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.”

²⁷⁵ Migration Agency, *Rutin: Skyddat boende/skyddad adress/sekretessmarkering för asylsökande utsatta för våld eller hot om våld.*

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 2021: | 2,216 |
| 2. Number of persons in detention at the end of 2021: | 420 |
| 3. Number of detention centres: | 6 |
| 4. Total capacity of detention centres: | 520 |

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.²⁷⁶

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.²⁷⁷ 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.²⁷⁸ 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.²⁷⁹

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.²⁸⁰ 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.²⁸¹

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.²⁸²

The number of detainees decreased from 2,526 in 2020 to 2,216 in 2021. This includes 1 child and 2,215 adults, out of which 161 were women and 2,054 men (compared to 7 children and 2,519 adults - 230 women and 2,289 men – in 2020). There was a decrease in the number of detainees in 2020 compared with 2019 due to COVID-19. The number of detainees has remained approximately at the same level in 2021 as in 2020. This is likely because the COVID-19 situation has remained largely the same in 2021 as in 2020.

²⁷⁶ Ch. 10, Section 13(3) Aliens Act.

²⁷⁷ Ch. 10, Sections 13 and 17 Aliens Act.

²⁷⁸ Ch. 10, Section 14 Aliens Act.

²⁷⁹ Ch. 16, Section 11 Aliens Act.

²⁸⁰ Lag (1991:572) om särskild utlänningskontroll.

²⁸¹ Ch. 10, Section 17 Aliens Act; Lag (1991:572) om särskild utlänningskontroll.

²⁸² Ch. 12, Section 14 Aliens Act.

Due to the COVID-19 pandemic, the access to visit detention centres continued to be limited during 2021 and provided digital visits instead, i.e. via video communication tools. In 2021, detention centres limited the number of places in each centre from a total of 520 to an average of 323 due to the COVID-19 situation.²⁸³

| Detentions orders in Sweden: 2012-2021 | | | | | | | | | | |
|--|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|
| Year | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 |
| Number | 2,564 | 2,893 | 3,201 | 3,959 | 3,714 | 4,379 | 4,705 | 4,144 | 2,528 | 2,216 |

Source: Migration Agency.

There were six detention centres in 2021 (**Gävle, Märsta, Flen, Källered, Ljungbyhed Åstorp**) with a total of nine units and an overall capacity of 520, although reduced to an average of 323 in 2021 as a consequence of the Covid-19 situation.²⁸⁴

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.²⁸⁵

B. Legal framework of detention

1. Grounds for detention

Indicators: Grounds for Detention

| | | | |
|---|---------------|----|-----------|
| 1. In practice, are most asylum seekers detained | | | |
| ❖ on the territory: | Yes | No | |
| ❖ at the border: | Yes | | No |
| 2. Are asylum seekers detained in practice during the Dublin procedure? | | | |
| Frequently | Rarely | | Never |
| 3. 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.

²⁸³ Swedish Migration Agency, *Annual Report 2021*, p. 82.

²⁸⁴ Swedish Migration Agency, *Annual Report 2021*, p. 82.

²⁸⁵ Ch. 12, Section 14 Aliens Act

Moreover, an alien may be detained:²⁸⁶

- (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.²⁸⁷

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.²⁸⁸ 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.²⁸⁹

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.²⁹⁰

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.²⁹¹

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.²⁹² 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.²⁹³

²⁸⁶ Ch. 10, Section 1(2) Aliens Act.

²⁸⁷ Ch. 10, Section 1(3) Aliens Act.

²⁸⁸ Migration Court of Appeal, MIG 2015:5, 3 June 2015, available at: <http://bit.ly/2mzQO8X>.

²⁸⁹ Migration Court of Appeal, MIG 2017:23, 5 December 2017, available at: <http://bit.ly/2FV6IGQ>.

²⁹⁰ JK, 'Kritik mot Migrationsverket p.g.a. felaktigt om beslut av förvar', 4 December 2017, available in Swedish at: <https://bit.ly/2IYR1Nw>.

²⁹¹ 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>.

²⁹² Migration Court of Appeal, MIG 2020:14, 30 June 2020.

²⁹³ Migration Court of Appeal, MIG 2020:15, 2 July 2020.

On 25 January 2021, the Migration Court of Appeal found 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 detention decision.²⁹⁴

On 30 June 2021 the Migration Court of Appeal ruled that detention of a person with an expulsion order that gained legal force is not allowed during the time-period in which he or she has to voluntarily leave the country.²⁹⁵

On 20 December 2021 the Migration Court of Appeal found that it is allowed with detention of a person that got a subsequent application accepted. Since the Reception Conditions Directive was applicable, the detention had to be in accordance with the Directive.²⁹⁶

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.²⁹⁷ 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.²⁹⁸

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.²⁹⁹ 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 2021, a total of 113 supervision decisions were taken by the Migration Agency, a decrease from 300 decisions in 2020.³⁰⁰

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.³⁰¹

Supervision is the only alternative to detention which is used, both for adults and children.

²⁹⁴ Migration Court of Appeal, MIG 2021:3, 25 January 2021

²⁹⁵ Migration Court of Appeal, MIG 2021:13, 30 June 2021

²⁹⁶ Migration Court of Appeal, MIG 2021:20, 20 December 2021

²⁹⁷ Ch. 10, Section 6 Aliens Act.

²⁹⁸ 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>.

²⁹⁹ Ch. 10, Section 8 Aliens Act.

³⁰⁰ Information provided by the Migration Agency's statistics unit.

³⁰¹ Migration Court of Appeal, MIG 2020:2, 5 February 2020.

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",³⁰² or
- (2) For the purpose of enforcing or preparing the enforcement of a refusal of entry or an expulsion order.³⁰³

In both cases, there is an express condition that alternatives to detention ("supervision") are not deemed sufficient to meet the purpose pursued.³⁰⁴ Children may not be detained for over 72 hours or, in exceptional circumstances, another 72 hours, hence in total maximum 6 days.³⁰⁵ A child cannot be separated from its guardians through the detention of either the guardian or the child.³⁰⁶ Where the child has no guardian in Sweden, detention may only be applied in exceptional circumstances.³⁰⁷

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."³⁰⁸

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. Migration Agency figures for 2020 show that 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. In 2021, one child was detained for one day.³⁰⁹

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.³¹⁰

In May 2020, RFSL Ungdom (RFSL Youth) published a report regarding young LGBTQI persons in detention.³¹¹ The three detained persons interviewed in the report expressed *inter alia* stress and fear

³⁰² Ch. 10, Section 2(1) Aliens Act.

³⁰³ Ch. 10, Section 2(2) Aliens Act.

³⁰⁴ Ch. 10, Section 2(1)(3) and 2(2) Aliens Act.

³⁰⁵ Ch. 10, Section 5 Aliens Act.

³⁰⁶ Ch. 10, Section 3 Aliens Act.

³⁰⁷ Ch. 10, Section 3 Aliens Act.

³⁰⁸ Swedish Red Cross, *Barn i förvar*, November 2018, available in Swedish at: <https://bit.ly/3jPifXm>.

³⁰⁹ Swedish Migration Agency, *Annual Report 2021*, 83.

³¹⁰ Migration Agency website, *Uppsikt och förvar*, available in Swedish at: <https://bit.ly/3cLbCDE>.

³¹¹ RFSL Ungdom, *Attention Detention – Situationen för HBTQ-ungdomar i Migrationsverkets förvar*, 2020.

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? | 57 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.³¹² 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.³¹³ Even if there are such exceptional circumstances, the alien is not detained longer than 3 months or, if it is likely that the execution will take longer because of the lack of cooperation by the alien or it takes time to acquire the necessary documents, more than 12 months. 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.³¹⁴

The average period of detention was 57 days in 2021, thus increasing from 55.3 days in 2020 and 27.8 days in 2019. This refers to an average 58 days for men and 40 days for women in 2021 (compared to 58 and 31 days respectively in 2020).³¹⁵ The continued long detention periods in 2021 are probably due to the continuing COVID-19 situation, 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 2020 (**Gävle, Märsta, Flen, Källered, Ljungbyhed** and **Åstorp**) with a total of 16 units and an overall capacity of 520 persons, although reduced to an average of 323 in 2021 as a consequence of the COVID-19 situation.³¹⁶ The places in the detention centres were close to being fully occupied throughout 2020. This situation persisted in 2021.

³¹² Ch. 10, Section 4(2) Aliens Act.

³¹³ *Ibid.*

³¹⁴ Ch. 10, Section 4(1) Aliens Act.

³¹⁵ Migration Agency. Annual Report 2021, available in Swedish at: <https://bit.ly/3LvJe6y>

³¹⁶ Migration Agency, Annual Report 2021, p. 82, available in Swedish at: <https://bit.ly/3Ps9FgJ>

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.³¹⁷ 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.³¹⁸

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 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.³¹⁹ 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).³²⁰ 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.³²¹

The Council of Europe Committee on the Prevention of Torture (CPT) published a new report after their visit to Sweden in January 2021, where they expressed continued concerns regarding lack of access to health care and to legal aid for people being detained, and that detainees were placed in prison facilities.³²²

2. Conditions in detention facilities

Indicators: Conditions in Detention Facilities

| | | |
|---|------------|-----------|
| 1. Do detainees have access to health care in practice? | Yes | No |
| ❖ If yes, is it limited to emergency health care? | Yes | No |

³¹⁷ FRA, *Migration: Key Fundamental Rights Concerns*, November 2020, available at: <https://bit.ly/2ZcYnnv>, 32.

³¹⁸ 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>.

³¹⁹ Ch. 11, Section 7 Aliens Act.

³²⁰ 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 människorättsklinik*, 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>;

³²¹ JO, *Säkerhetsplacerade förvarstagna berövas sina rättigheter*, 2020, available in Swedish at: <http://bit.ly/3qZLqZJ>.

³²² CPT, *Report to the Swedish Government on the visit to Sweden carried out from 18 to 29 January 2021*, 9 September 2021, available at: <https://bit.ly/3NqjvOa>

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.³²³ 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.³²⁴ Such a decision must be reviewed as often as is required but at least every third day. If the person is a danger to themselves then a medical examination should be promptly ordered. There is no requirement that detention confined to a room at the centre must be tried before removing someone to police custody or to the prison services.

A detainee is not allowed to have alcoholic drinks or other stimulants or any object that can hurt anyone or be to the detriment of the keeping of order at the detention centre.³²⁵ 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

³²³ Ch. 11, Section 1 Aliens Act.

³²⁴ Ch. 11, Section 7 Aliens Act.

³²⁵ Ch. 11, Section 8 Aliens Act.

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.³²⁶ 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 suspect that a letter may have a passport or other identity document inside, 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.³²⁷ They can have access to these objects upon leaving the detention centre, as a list needs to be made of all stored objects.

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

All detainees have access to health care at the same level as other applicants, therefore, requiring, regular visits from nurses and doctors.³²⁸ All detainees have access to open air at least 1 hour a day often in a closed courtyard.

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).

Källered, Gothenburg: During their last inspection in 2018,³²⁹ 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;

³²⁶ Ch. 11, Section 10 Aliens Act.

³²⁷ Ch. 11, Sections 11-12 Aliens Act.

³²⁸ Ch. 11, Section 5 Aliens Act.

³²⁹ JO, *Inspektion av Migrationsverket, försvarsheten i Källered, Göteborg, den 13–14 mars 2018*, available in Swedish at: <http://bit.ly/2JSx7WX>.

- 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 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 2020.³³⁰

3. Access to detention facilities

Indicators: Access to Detention Facilities

| | | | |
|--|-----|---------|----|
| 1. Is access to detention centres allowed to | | | |
| ❖ Lawyers: | Yes | Limited | No |
| ❖ NGOs: | Yes | Limited | No |
| ❖ UNHCR: | Yes | Limited | No |
| ❖ Family members: | Yes | Limited | 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.³³¹

³³⁰ JO, *Migrationsverkets åtgärder med anledning av COVID-19*, 9 October 2020, available in Swedish at: <https://bit.ly/3sukG55>.

³³¹ Ch. 11, Section 4 Aliens Act.

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 pandemic.³³²

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.³³³

Restrictions were lifted in February 2022.

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.³³⁴ Review of alternatives to detention ("supervision") is carried out within 6 months.³³⁵

Where time limits are not respected, a decision to detain or hold a person under supervision ceases to be legally binding.³³⁶

Each review of a detention order must be preceded by an oral hearing.³³⁷ 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,

³³² FRA. *Migration Bulletin: Key Fundamental Rights Concerns*, November 2020, available at: <https://bit.ly/3qdfFge>, 3.

³³³ JO, *Migrationsverkets åtgärder med anledning av covid-19*, available in Swedish at: <https://bit.ly/3sukG55>.
³³⁴ Ch. 10, Section 9(1) Aliens Act.

³³⁵ Ch. 10, Section 9(2) Aliens Act.

³³⁶ Ch. 10, Section 10 Aliens Act.

³³⁷ Ch. 10, Section 11(1) Aliens Act.

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.³³⁸

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? | <u>Yes</u> | No |
| 2. Do asylum seekers have effective access to free legal assistance in practice? | <u>Yes</u> | No |

After 3 days in detention, an asylum seeker has access to free legal assistance on detention matters only.³³⁹ 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.

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.³⁴⁰

E. Differential treatment of specific nationalities in detention

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

³³⁸ Migration Court of Appeal, MIG 2019:17.

³³⁹ Ch. 18, Section 1(1)(4) Aliens Act.

³⁴⁰ 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, renewable for two years |
| ❖ Subsidiary protection | 13 months, renewable for 2 years |
| ❖ Humanitarian protection | 13 months, renewable for two years |

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.³⁴¹ 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 temporary law limited 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.³⁴² 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". On 22 June 2021 the Swedish Parliament voted in favour of introducing the proposed changes to the Aliens Act. These changes largely followed the proposal by the Committee of Inquiry, with some amendments by the government. The changes came into force on 20 July 2021, when the temporary law ended. According to the changes introduced, temporary residence permits are the general rule for beneficiaries of international protection; while resettled refugees are granted permanent permits. Residence permits should remain limited to three years for refugees and 13 months for subsidiary protection status holders, in both cases extendable by two years subject to a new assessment, as was already the case through the temporary law. Beneficiaries of international protection can get permanent residence permits after having temporary permit for at least three years, but need to demonstrate 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).³⁴³ The condition to provide for oneself does not apply to children, persons who are eligible for retirement pensions, or if there are other particular reasons. According to the proposal by the above-mentioned Cross-party Committee, in a later stage new conditions to demonstrate civic education skills, and a good knowledge of Swedish language will also be required to obtain a permanent residence permit.

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.

³⁴¹ Lag om tillfälliga begränsningar av möjligheten att få uppehållstillstånd i Sverige, 2016:752, available at : <https://bit.ly/3rNCGa6>.

³⁴² See e.g. Swedish Government, 'Government proposes measures to create respite for Swedish refugee reception', 24 November 2015, available at: <http://bit.ly/1L0I9f>.

³⁴³ SOU 2020:54, En långsiktigt hållbar migrationspolitik, available in Swedish at: <https://bit.ly/36J4cgR>, 25-28

The third type of protection status according to the Aliens Act, a “person otherwise in need of protection”, was suspended through the temporary law.³⁴⁴ and was struck out of the Aliens Act as a consequence of the changes that came into force on 20 July 2021.

Convention refugees are, according to both the previous temporary law and the current Aliens Act, 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. 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.

Until 19 July 2021, persons whose removal would contravene Sweden’s international convention-based obligations and who do not qualify for Convention refugee status or subsidiary protection status could be granted an initial temporary permit of thirteen months which could be prolonged for two years if the grounds persist. The circumstances in the case must also had been considered as being particularly distressing. As of 20 July 2021, the condition that a removal would contravene Sweden’s international convention-based obligations no longer applies. A temporary residence permit may be granted when the circumstances in the case are particularly (for children) or exceptionally (for adults) distressing. The circumstances regarding the applicant’s health condition, his/her private life in Sweden, and the situation in his/her country of origin should be taken into account when assessing this ground for a residence permit. An adult who has already lived in Sweden with a temporary residence permit and has acquired a particular affiliation with Sweden will need to show particularly, and not exceptionally, distressing circumstances. The initial temporary permit is granted for thirteen months, it could be prolonged for two years if the grounds persist. 443 first time applicants were granted permits for these reasons in 2021.³⁴⁵ 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 2021, the Migration Agency granted residence permits in 3,310 first time asylum applications,³⁴⁶ down from 4,922 in 2020 and from 6,540 in 2019 .

The Migration Agency resettled 6,411 refugees in 2021. In 2020 the Agency’s resettlement was paused in March 2020 due to Covid-19 but was resumed again in August. In total, 3,599 refugees were resettled during 2020, although the Migration Agency was tasked with resettling 5,000 that year. In 2021, the resettlement quota was therefore larger than the past years as the remaining 1,400 refugees were transferred to the 2021 quota. Among the resettled refugees 1,500 were Afghans, many of them evacuated from Afghanistan in a special evacuation operation performed by the Migration Agency and other Swedish Agencies.³⁴⁷ Evacuated Afghans were treated in the same manner as other resettled refugees.

The vast majority of beneficiaries of international protection applying for a renewal of their temporary residence permits have had it granted. In 2021, the Migration Agency received 32,008 applications and took decisions in 27,801 cases. The acceptance rate in cases tried on the merits was 97%.The vast

³⁴⁴ 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.

³⁴⁵ Migration Agency, Monthly statistical report December 2021 : <https://bit.ly/38Ac5pP>.

³⁴⁶ Migration Agency, *Monthly statistical report December 2021*.

³⁴⁷ Migration Agency, *Annual Report 2020*, available in Swedish at: <https://bit.ly/2Ngcrum>, 56.

majority of decisions on extensions of residence permits concerned **Syrians** (9,826 decisions, of which 9,504 were granted, or 99% of those tried on the merits), **Afghans** (6,445 cases, of which 5,935 were granted, or 95% of those tried on the merits), **Iraqis** (1,704 decisions, of which 1,607 were granted, or 98% of those tried on the merits), **Eritreans** (2,723 decisions, of which 2,638 were granted, or 100% of those tried on the merits) and), and Iran (1,158 decisions, of which 1,137 were granted, or 100% of those tried on the merits). The average processing time for applications to extend residence permits based on protection status was 193 days in 2021.³⁴⁸

During 2020 the Swedish Embassy in Tehran postponed all interviews from 17 August 2020 due to COVID-19. The Embassy in Tehran again started to conduct interviews in January 2021, and other Embassies also remained open. The Migration Agency has continued to conduct interviews, while taking precautionary measures such as the use of plastic shields or interviews by videoconference. Travel restrictions due to COVID-19 made it difficult for some applicants to travel to Embassies to submit or attend appointments in relation to their application.³⁴⁹

2. Civil registration

Persons residing in Sweden need to register at the Swedish Population Register.³⁵⁰

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. If one of the parents is registered in the Registry, the taxation authorities will register the birth and give the child a unique personal identity number which gives access to the welfare system etc.³⁵¹ If the parents are not registered, the taxation authorities will notify the Migration Agency who informs the parents that they must apply for residence permit for their new born child.³⁵²

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 there are no impediments to marriage, (*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.³⁵³

Without civil registration a person will have problems with: opening a bank account; working in Sweden; obtaining medical treatment; registering for social insurance. Civil registration is not necessary in order to attend Swedish language courses if he or she has a right to reside in Sweden.³⁵⁴

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.

Persons who are not residing in Sweden but need to have contact with Swedish authorities could be assigned a Coordination number by the Tax authority. For example, asylum seekers who are working in

³⁴⁸ Migration Agency, *Monthly statistical report December 2020*, 10-11.

³⁴⁹ Swedish Migration Agency, *The embassy in Tehran is postponing all interviews until 2021*, available at: <https://bit.ly/3aLgzvb>.

³⁵⁰ Skatterverket, *Moving to Sweden*, available at: <http://bit.ly/1U1ljcY>.

³⁵¹ Migration Agency, *Children born in Sweden*, available at: <http://bit.ly/2FbnVt1>.

³⁵² Skatterverket, *New parents*, available at <https://bit.ly/3f1ZAWM>

³⁵³ Embassy of Sweden in London, *Getting married in Sweden*, available at: <https://bit.ly/3u17kyM>.

³⁵⁴ 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>.

Sweden will need a Coordination number.³⁵⁵ Coordination numbers are assigned upon requests from other public authorities. The system of coordination numbers has been criticized by politicians for lacking in control. An official report of the Swedish Government has proposed changes in the registry system and to introduce identity numbers instead of coordination numbers, meaning that an identity check must be done by the Tax authority before an identity number is assigned.³⁵⁶

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, obtaining long-term residence status has become an increasingly relevant option as persons obtaining this status also obtain a permanent residence permit in Sweden.³⁵⁷

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 2021: | 71,238 |
| 3. Number of citizenship through naturalisation in 2021: | 59,293 |

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.³⁵⁸

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.

³⁵⁵ Skatterverket, *Coordination numbers*, available at <https://bit.ly/3IGTvTf>.

³⁵⁶ Om folkbokföring, samordningsnummer och identitetsnummer, available in Swedish at: <https://bit.ly/3zNWjEI>.

³⁵⁷ Ch. 5, Section 2 b Aliens Act.

³⁵⁸ Act on Swedish Citizenship, Section 11.

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.³⁵⁹

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 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).

An applicant that cannot prove their identity may obtain Swedish citizenship after eight years of habitual residence if they can provide evidence of their identity.

An official report to the Swedish Government proposed the inclusion of new requirements for citizenship as of 1 January 2025. According to this proposal, applicants will need to demonstrate civic education skills, and a good knowledge of Swedish language.³⁶⁰

In 2021, the Migration Agency registered 71,812 new applications for citizenship. A total of 83,396 first instance decisions were handed down in 2021, out of which 71,238 granted citizenship. The majority of citizenships were granted to applicants from **Syria** (31,388); **Afghanistan** (4,612); **Iraq** (2,459); **Stateless** (2,841) and **Somalia** (5,011).³⁶¹ The Migration Agency had 98,248 citizenship requests pending at the end of the year.³⁶²

The average number of days from application to decision at first instance was 372 in 2021,³⁶³ compared to 390 days in 2020 and 348 days in 2019 .

³⁵⁹ Act on Swedish Citizenship, Section 7.

³⁶⁰ Regeringskansliet, *Requirements for knowledge of Swedish and social studies for Swedish citizenship*, available at: <https://bit.ly/3HHAMQf>

³⁶¹ Migration Agency, *Inkomna och avgjorda medborgarskapsärenden innevarande år*, available in Swedish at: <https://bit.ly/3leVywD>.

³⁶² Migration Agency. Monthly statistical report December 2021,

³⁶³ Ibid.

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 (if risk of expulsion) | 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. The changes must be durable and fundamental.

Chapter 4, Section 5a provides that a person will cease to be 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. The changes must be durable and fundamental.

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. The Migration Agency, which is also responsible for cessation procedures, has therefore issued guidance on these topics.³⁶⁴ 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.³⁶⁵

The Migration Court of Appeal decided in a precedent case on the issue of cessation and revocation of subsidiary protection when the beneficiary, who was granted protection because of child-specific risks, has become an adult.³⁶⁶ The case concerned 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 Court found that subsidiary protection status had

³⁶⁴ Migration Agency, Rättsligt ställningstagande. Förutsättningarna för att återkalla en skyddsstatusförklaring - RS/054/2021 (version 3.0), available in Swedish at: <https://bit.ly/3zyQytT>

³⁶⁵ Migration Court of Appeal, MIG 2011:13, 13 June 2011, available at: <http://bit.ly/2n4FaA6>.

³⁶⁶ Migration Court of Appeal case number UM 2839-20.

ceased and should be revoked. The fact that the beneficiary had become an adult was considered such a fundamental change that the status could be revoked, and that there were no other protection grounds.

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).

The Swedish Refugee Law Center published a report on cessation, developed with support by UNHCR, including a case study of the Migration Agency's cessation cases during a six-month period. Cessation of refugee status was in all cases due to voluntary re-availment of protection of the country of nationality. No protection status was withdrawn based on cessation due to a change of circumstances in the country of origin, either for refugee status or subsidiary protection status.³⁶⁷

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 (if risk of expulsion) | 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.³⁶⁸ 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 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.³⁶⁹

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 2021, 306 cases regarding residence permits and 598 cases concerning citizenship were reported to the Swedish Security Services.

In 2021, Sweden withdrew international protection status for 363 individuals (236 refugee status, 127 subsidiary protection status). The three most common nationalities regarding refugee status were

³⁶⁷ Swedish Refugee Law Center, *What happens when the need for protection ends?*, available at <https://bit.ly/3wz4zXj>

³⁶⁸ Chapter 4, Section 5 b, Aliens Act for refugee status and Chapter 4, Section 5 c, Aliens Act, for subsidiary protection status.

³⁶⁹ Migration Agency, . Rättsligt ställningstagande. Förutsättningarna för att återkalla en skyddsstatusförklaring - RS/054/2021 (version 3.0) , available in Swedish at <https://bit.ly/3zyQytT>

Afghanistan (54), **Syria** (34), and Iraq (27), regarding subsidiary protection status the most common nationalities were Syria (62), Afghanistan (38), and Uzbekistan (5).

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 ³⁷⁰ | |
| 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 affected 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 was in force until 19 July 2021. In 2019, a parliamentary commission of inquiry was tasked with proposing new legislation. The commission presented its proposal in September 2020.³⁷¹ Most of the proposals were included in the changes in the Aliens Act that came into force on 20 July 2021, although some adjustments were made due to further political debate and commentary on the proposal from civil society and public authorities. The changes basically rendered most of the restrictions introduced through the Temporary law permanent.

In general the right to family reunification is limited to core family members only, although other family members may be accepted under special circumstances. It also includes 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.

With the Temporary law valid until 19 July 2021, people who were granted a protection status - either the refugee or the subsidiary protection status - had 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).³⁷² 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.

³⁷⁰ Please note that this is only in order to avoid having to meet income and housing requirements. Applications can be made later, however they will then be subject to those requirements.

³⁷¹ En långsiktigt hållbar migrationspolitik, SOU 2020:54, available in Swedish at: <https://bit.ly/2MPZA1j>.

³⁷² Migration Court of Appeal, MIG 2018:20.

Beneficiaries of international protection who have a temporary resident permit must also be regarded as having “well-founded” prospects of being granted a residence permit “for a longer time” in order to be entitled to family reunification.³⁷³ 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;
- If the person in Sweden is under 18 years, parents are counted as closest family.

Other relatives and children over 18 years of age are not eligible to reunite with the sponsor in Sweden if that sponsor has a temporary residence permit. However, the Temporary law had a provision saying that residence permit could be granted in other cases if denying a residence permit would contravene Sweden’s international legal obligations.

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.

With the cessation of the Temporary law and the changes introduced in the Aliens Act, although most provisions remained the same, some changes were made:

- Residence permits for family reunification may be granted for persons who intend to marry or cohabit if the relationship was established already in the country of origin. This proposal is primarily aimed at enabling family reunification in same-sex relationships where the partners were not able to formalise their relationship or cohabit 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.
- The condition in the Temporary law that partners must be at least 21 years old before the partner can obtain a residence permit no longer applies, but the age limit is now 18 years.
- The possibility of extending a residence permit was re-introduced when the relationship that formed the basis of the residence permit has ended due to domestic violence or another serious violation.
- Other relatives and children over 18 years of age may be eligible to reunite with the sponsor in Sweden if a particular dependency exists. The requirement that a residence permit may only be granted in such cases if it would contravene Sweden’s international legal obligation to deny residence permit no longer applies.

³⁷³ Ch. 5, Section 3 Aliens Act. Note that the Swedish translation of “reasonable” in Article 3 of the Family Reunification Directive is equal to “well-founded” rather than reasonable.

For several years, one of the major obstacles to family reunification related to the obligation to prove one's identity, as laid down in law. A number of precedent-setting rulings from the Migration Court of Appeal, the first from 2012, have allowed for the reunification of families who are unable to prove their identity. The Migration Appeal Court handed down a ruling on 5 March 2018, , stating that for **refugees** and their nuclear family the level of proof of identity could be relaxed because it was unreasonable to expect them to approach their national authorities to obtain a passport and thereby endanger the situation of remaining family members in the country of origin.³⁷⁴ In such cases a DNA test would be taken as a first instance measure as a means of proving identity. The Migration Agency has accepted this lower standard of proof both for refugees and for beneficiaries of **subsidiary protection** in cases where the family has lived together. The Migration Agency stated in October 2021 that due to the Taliban take-over in Afghanistan, Afghan citizens cannot acquire new passports. Therefore, if other conditions are met, Afghans applying for family reunification may be exempt from the obligation to prove their identity and present a passport.³⁷⁵

The Migration Agency has adjusted its position on who should be considered as being underage, with reference to recent CJEU jurisprudence (C 133-19). As regards beneficiaries of international protection, children who are under the age of 18 at the time of application are considered as children even if they would be over 18 years old at the time of decision.

1.2. Material requirements and procedure

The temporary law has introduced a tougher maintenance requirement. With the cessation of the temporary law and introduction of changes in the Aliens Act that came into force 20 July 2021, the maintenance requirement remained, although some exceptions were introduced. 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. This only applies to families who have cohabited, or when the relationship otherwise is considered as well established. The combination of strict time limits and high income and housing requirements could also effectively remove refugees' possibility of being reunited with family members.³⁷⁶

As stated on the Migration Agency's website, income and housing requirements are as follows:³⁷⁷

"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 2021 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

³⁷⁴ Migration Court of Appeal, MIG 2018:4, UM-2630-17, 5 March 2018, available at: <https://bit.ly/3jOZ7Jf>.

³⁷⁵ Rättsligt ställningstagande. Afghanska medborgares möjligheter att skaffa pass - RS/087/2021 <https://bit.ly/33dQLGU>

³⁷⁶ 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

³⁷⁷ See the official website of the Swedish Migration Agency, available at: <https://bit.ly/3bLI3iu>.

room. If children are going to live in the home, there must be more rooms. Two children can share a bedroom”.

When there are special reasons, the maintenance requirement may be lifted fully or partly. The preparatory work gave as an example that there could be special reasons for persons who have retired from the labour market or who are unable to work due to disability or sickness. For resettled persons, the time limit of three months should be counted from the date the sponsor arrives in Sweden and not the date the residence permit was granted.

In 2021, a total of 41,903 applications for residence permits based on family ties were lodged (of which 32,587 were first time applications). The Migration Agency issued a total of 38,746 decisions (of which 29,968 were first time applications), out of which 53% of the first time applications and 92% of the subsequent applications were approved. By the end of the year, a total of 34,037 family reunification applications were pending (of which 29,505 were first time applications). Across all instances, a total of 3,800 residence permits were granted in family reunification cases where the person in Sweden was a beneficiary of international protection.³⁷⁸

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 330 days for first time applications, and 152 days for subsequent applications.³⁷⁹ 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...

In November 2018, FARR published a critical report on the persisting challenges in family reunification procedures.³⁸⁰ 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.³⁸¹ 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).³⁸² In December 2020 the scope of the procedure was extended to Directive (EU) 2016/801 on the conditions of entry and residence of third-country nationals for the purposes of research, studies, training, voluntary service, pupil exchange schemes or educational projects and au pairing.³⁸³ The Commission responded to a request from FARR in 2021, confirming that communication is ongoing with the competent Swedish authorities concerning expired deadlines for processing applications for work and residence permits, and that the Commission continues to closely monitor the situation.³⁸⁴

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.³⁸⁵ In 2021, 140 applications for subsidies were granted. The budget for travel grants for relatives had a low expenditure in 2021, when only 1,5 million SEK of the 9,5 million SEK budget

³⁷⁸ Migration Agency, Monthly statistical report December 20210.

³⁷⁹ Migration Agency, *Monthly statistical report December 2021*,

³⁸⁰ FARR, 'När lagen splittrar – En exempelsamling om striden för familjeåterförening' in Artikel 14 #3 2018, available in Swedish at: <http://bit.ly/2CNGeCj>.

³⁸¹ Stockholms Stadsmission, Göteborgs Stadsmission and FARR, Complaint to the European Commission, available at: <http://bit.ly/2Fqclbp>.

³⁸² European Commission, July infringements package: key decisions, available at: <https://bit.ly/2SEFyqs>.

³⁸³ European Commission, December infringements package: key decisions, available at: <https://bit.ly/3LttbX4>

³⁸⁴ Information provided by FARR via e-mail in January 2022

³⁸⁵ Förordning (1984:936) om bidrag till flyktingar för kostnader för anhörigas resor till Sverige.

was spent. The Migrations Agency had a travel agreement with BCD Travel.³⁸⁶ For family members of persons with subsidiary protection, the Swedish Red Cross had partial funding available during the last six months of 2021, assisting seven families (51 individuals) to reunite in Sweden, but even these resources are strained at present.³⁸⁷

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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 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 19,932 travel documents were issued in 2021.

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 2021, a total of 13,831 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.

³⁸⁶ Information provided by Migration Agency via e-mail in January 2022

³⁸⁷ Information provided by the Swedish Red Cross via email in January 2022

³⁸⁸ Information provided by the Swedish Red Cross via email in January 2022.

D. Housing

Indicators: Housing

| | |
|--|-------------------------|
| 1. For how long are beneficiaries entitled to stay in reception centres? | 2 months ³⁸⁹ |
| 2. Number of beneficiaries staying in reception centres as of 31 December 2021 | 415 ³⁹⁰ |

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.³⁹¹ This was done to address the situation where many permit holders were forced to wait many months at the Migration Agency’s accommodation and thus delayed their integration into Swedish society. The municipalities now have an obligation to offer them housing within two months from being designated by the Migration Agency as a reception municipality.³⁹² After that period the responsibility for providing support and housing falls on the municipality.³⁹³ 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 2021, a total of 13,349 persons were assigned to be received in municipalities throughout Sweden after receiving a residence permit, including 6,248 who were resettled, 1,970 who had been staying in reception centres, 2,156 who had been residing in accommodation that they had arranged themselves and 2,246 relatives and 729 “other”.³⁹⁴

The average time between the granting of a permit and being settled in a municipality was 56 days in 2021, down from 58 days in 2020, and just within the two-month deadline for leaving Migration Agency accommodation.³⁹⁵ A total of 415 beneficiaries with residence permits were living in Migration Agency accommodation at the end of 2021, down from 634 in 2020.³⁹⁶ 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: 3,310 in 2021, down from 4,922 in 2020).³⁹⁷

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.

³⁸⁹ 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>.

³⁹⁰ Migration Agency, *Monthly statistical report December 2021*, including year-end numbers, p. 26.

³⁹¹ Lag (2016:38) om mottagande av vissa nyanlända invandrare för bosättning, available at: <http://bit.ly/2mqkzq2>.

³⁹² Section 10, Förordning (2016:39) om mottagande av vissa nyanlända invandrare för bosättning, available in Swedish at: <https://bit.ly/3bfdUXN>.

³⁹³ Migration Agency, ‘Bosättning i en kommun’, 20 January 2017, available in Swedish at: <http://bit.ly/2msvG3J>.

³⁹⁴ Migration Agency, *Monthly statistical report December 2021*, including year-end numbers, 28.

³⁹⁵ Migration Agency, *Monthly statistical report December 2021*, including year-end numbers, 30.

³⁹⁶ Migration Agency, *Monthly statistical report December 2021*, including year-end numbers, 26, and *Monthly statistical report December 2020*, 26.

³⁹⁷ Migration Agency, *Monthly statistical report December 2021*, p. 8, including year-end numbers, and *Monthly statistical report December 2020*.

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.³⁹⁸ 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 64.³⁹⁹

Since 1 January 2018, a person who has recently been granted a residence permit and is under the responsibility of the Public Employment Service has to take part in any education that the Public Employment Service assess as necessary for the person to be able to access the labour market. Should the person not take part in the designated education, he or she can be warned or lose their “introduction benefit”.

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.⁴⁰⁰

In 2021, the general unemployment rate was 8.8%, up from 8.3% 2020.⁴⁰¹ 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.⁴⁰²

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.⁴⁰³ There are requirements regarding proficiency in Swedish and English for higher education studies and other more

³⁹⁸ Sabo, ‘Ny dom ger kommun rätt att säga upp nyanländas hyreskontrakt’, 5 April 2018, available in Swedish at: <https://bit.ly/2UwxmH2>.

³⁹⁹ Migration Agency, ‘Bosättning i en kommun’, 20 January 2017, available in Swedish at: <http://bit.ly/2msvG3J>.
⁴⁰⁰ FRA, *Migration: Key Fundamental Rights Concerns*, November 2020, available at: <https://bit.ly/3aM2e0b>, 7.

⁴⁰¹ SCB, *Arbetslöshet i Sverige*, available at: <https://bit.ly/3toSBwX>.

⁴⁰² Government, ‘Nyanländas etablering går snabbare’, 31 January 2018, available in Swedish at: <https://bit.ly/2UTd53D>.

⁴⁰³ Centrala studiestödsnämnden, *Refugee – support from CSN*, available at: <https://bit.ly/2Zio06v>.

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. A person with a degree or qualifications from another country can obtain an evaluation and recognition of the qualifications by the Swedish Council for Higher Education in order to provide support for finding work, or enable their continued studies in Sweden.⁴⁰⁴ Some universities offer fast track courses for those already possessing higher education degrees.⁴⁰⁵

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”.⁴⁰⁶ 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.⁴⁰⁷

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.

To be granted social welfare from the municipalities, you must be registered in the Swedish Population Register, managed by the Swedish Tax Agency. In practice, obstacles to prompt registration in the Swedish Population Register may have a temporary impact on beneficiaries’ access to social welfare.

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.⁴⁰⁸

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,

⁴⁰⁴ Swedish Council for Higher Education, available at <https://bit.ly/3LmbEQB>

⁴⁰⁵ See e.g. Linköping University, *Utbildningsutbud på LiU, kompletteringsmöjligheter och snabbspår*, available in Swedish at: <https://bit.ly/39zzdVK>.

⁴⁰⁶ Lag (2010:197) om etableringsinsatser för vissa nyanlända invandrare.

⁴⁰⁷ Socialtjänstlag (2001:453) Svensk författningssamling. See also Socialstyrelsen, *Social assistance*, available at: <https://bit.ly/3u05Wwb>

⁴⁰⁸ GP, ‘Skräl pension för nya svenskar’, 6 September 2015, available in Swedish at: <http://bit.ly/2FAHIFr>.

Somalia and Iraq being particularly affected during parts of the pandemic. Socio-economic factors have been identified as the cause of this.⁴⁰⁹

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.⁴¹⁰

⁴⁰⁹ 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>.

⁴¹⁰ 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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