

Country Report: Sweden



**2022
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 2022, 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, Türkiye, 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
TPD	Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof
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. These include a breakdown per nationality, as well as statistics specifically relating to unaccompanied children.

Applications and granting of protection status at first instance: 2022

	Applicants in 2022	Pending at end of 2022	Refugee status	Subsidiary protection	Humanitarian protection	Rejection	Refugee rate	Sub. Prot. rate	Humanitarian protection rate	Rejection rate
Total	16,734	8,445	2,770	761	523	6,174	27%	7%	5%	60%

Breakdown by countries of origin of the total numbers

Afghanistan	2,154	1,321	655	74	132	580	45%	5%	9%	40%
Syria	1,947	699	441	452	29	104	43%	44%	3%	10%
Ukraine	1,940	927	298	0	0	46	87%	0%	0%	13%
Iraq	1,329	802	81	8	46	637	10%	1%	6%	83%
Eritrea	793	148	187	7	16	42	74%	3%	6%	17%
Russia	747	398	19	0	5	255	7%	0%	2%	91%
Uzbekistan	680	260	18	0	1	348	5%	0%	0,3%	95%
Iran	621	409	77	0	16	218	25%	0%	5%	70%
Colombia	570	224	1	1	2	398	0,2%	0,2%	0,5%	99%
Türkiye	497	289	298	0	3	194	60%	0%	1%	39%

Source: Migration Agency Monthly Statistical Report December 2022, Dnr: 1.1.1.2-2022-1381, pages 9, 16; Statistics provided by the Migration Agency's statistics unit Eurostat, table A05, A06, A08. Inadmissibility decisions are excluded. Please note that the Migration Agency uses different definitions in different reports, which makes the numbers different in the various sources. For example, the Migration Agency states that the number of asylum applications in 2022 was 16,734 in the Monthly Statistical Report, 16,738 in the statistics available on their website, 18,457 in the statistics provided by the SMA's statistics unit Eurostat guidelines table A01 and 14,816 in the SMA's Annual Report 2022, available in Swedish at: <http://bitly.ws/AUE8>. Please also note that these numbers are defined as first-time applicants, however, applications by persons who have previously had their applications rejected and who apply again after their expulsion decision has become statute-barred (which it is four years after the decision has become final) may also be registered as first-time applications.

Gender/age breakdown of the total number of applicants: 2022

	Number	Percentage
Total number of applicants	16,738	100%
Men (incl. children)	10,736	64%
Women (incl. children)	6,002	36%
Children	4,038	24%
Unaccompanied children	630	4%

Source: Migration Agency, Asylum statistics, available at: <http://bit.ly/2kkz2Vu>. See also Migration Agency Monthly Statistical Report December 2022, Dnr: 1.1.1.2-2022-1381, 9. Please note that there is a minor discrepancy between these two sources.

Comparison between first instance and appeal decision rates: 2022

	First instance		Appeal	
	Number	Percentage	Number	Percentage
Total number of decisions	14,242	100%	9,571	100%
Positive decisions	3,742	26%	613	6%
• <i>Refugee status</i>	2,770	19%	not available	not available
• <i>Subsidiary protection</i>	761	5%	not available	not available
Negative decisions	6,174	43%	8,076	84%

Source: Migration Agency, Monthly Statistical Report December 2022, Dnr: 1.1.1.2-2022-1381, page 9, 16, 22. See also Migration Agency, Asylum statistics, available at: <http://bit.ly/2kkz2Vu> where the total number of decisions is recorded as 14,245, with 3,742 positive decisions and 5,874 negative decisions. According to the Migration Agency's Monthly Statistical Report, positive decisions make up 37% 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 as well as the numbers concerning negative decisions from the two sources do not seem to add up. Negative decisions at first instance do not include inadmissibility decisions.

In addition to the positive and negative decisions in the appeal stage, appr. 9% were referred back to the SMA for processing. This is why the percentage of positive and negative decisions in appeal do not add up to 100%.

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)
Act concerning Special Controls of Certain Aliens, 2022:700	Lag (2022:700) om särskild kontroll av vissa utlänningar		http://bitly.ws/z8C8 (SE, EN)

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	Utlänningsförfordningen, 2006:97	UtlF	https://bit.ly/2HM9fkP (SE)
Ordinance on the Act on Reception of Asylum Seekers, 1994:361	Förordning (1994:361) om lagen om mottagande av asylsökande, 1994:361		https://bit.ly/2jMHsV9 (SE)
Ordinance with Instructions for the Migration Agency, 2019:502	Förordning (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 2022**.

International protection

- ❖ **Key asylum statistics at first instance:** In 2022, 16,738 preliminary applications for international protection were lodged in Sweden. This marks an increase of 48% from 2021, compared to a more than 50% EU-wide. Most first-time applications were lodged by nationals of Afghanistan (2,009), Ukraine (1,976), Syria (1,379), Iraq (1,266) and Russia (746). At first instance, the overall recognition rate was 37%, a slight increase from 32% in 2021. The recognition rate for Afghans was 60%; 90% for Syrian nationals. The backlog of pending cases at the end of 2022 was 6,859, a slight increase from 2021. The average length of proceedings further decreased from 256 days in 2021 to 166 days in 2022. 9,307 subsequent applications were lodged, particularly from nationals from Afghanistan, Iraq, Iran and Ukraine.

Asylum procedure

- ❖ **The Government platform agreement – Tidö Agreement:** In the agreement between the parties in the new government (formed in October 2022) and the Sweden Democrats, the Tidö Agreement,¹ it is stated that a review of the asylum process will be conducted with the aim of enhancing its quality, consistency, and legal certainty. The review shall among other things look at criteria for legal representatives, interpreters and lay judges and the assessment of conversion and LGBTQI+ cases.
The agreement also states that a review will be done of the existing regulations on safe countries of origin to allow for countries where parts of the country can be considered safe to be brought up on the list. They also consider shifting responsibility for the list of safe countries from the Swedish Migration Agency to Government Offices. The Government has initiated an information campaign about the so called 'paradigm shift' in migration policies, with information provided to Swedish foreign missions and targeted communication to foreign news agencies.
- ❖ **Right to stay:** In February 2022, the Migration Court of Appeal ruled in the case MIG 2022:2² that, in a case where a family member presents new grounds for asylum during the proceedings in the Migration Court, the starting point should be that the assessment of the family member's right to reside in Sweden is kept together until the entire family's right to stay in Sweden can be determined.
- ❖ **Migration Courts' procedural duties:** The Migration Court of Appeal ruled in May 2022 in case MIG 2022:4,³ that the Migration Court's investigative responsibility becomes relevant when it is clear that the appellant has communication difficulties and that these may have affected both the appellant's ability to explain his reasons for asylum and the assessment of the appellant's credibility.
- ❖ **Age assessment:** following the interim report of the specific inquiry in 2021, the National Board of Forensic Medicine published an updated methodology on 5 September 2022, containing a more comprehensive account of uncertainties and factors affecting the model. However, in December 2022 the new Swedish government decided to discontinue the inquiry, which was

¹ See in Swedish: <https://bit.ly/3lHPYr9>.

² Migration Court of Appeal, 25 February 2022, MIG 2022:2, available in Swedish at: <http://bit.ly/3zcEKhd>.

³ Migration Court of Appeal, 31 May 2022, MIG 2022:4, available in Swedish at: <http://bit.ly/3zsrkON>.

supposed to continue working and publish final findings by May 2024 at the latest, a decision criticised by several organisations.

- ❖ **Family unity:** In November 2022, the Migration Court of Appeal ruled in case MIG 2022:9⁴ and expressed that the principle of family unit does not include a separate right to refugee status for a family member to a refugee if the family member lacks individual protection grounds.
- ❖ **Afghanistan:** In December 2022, the Migration Agency published new legal guidance on Afghanistan,⁵ in which it assessed that the situation for women and girls in Afghanistan was so severe that they should be regarded as refugees in general.

Reception conditions

- ❖ **The Government platform agreement – Tidö Agreement:** According to the political agreement between the Government political parties and the Sweden Democrats the migration legislation will be subject to comprehensive changes with the aim of restricting the rights of asylum seekers to a minimum level in accordance with international obligations. In the agreement they also intend to end altogether the possibility for asylum seekers to choose and arrange their own accommodation. It is proposed that transit centres where asylum seekers are to spend the entire asylum process be introduced. An ongoing inquiry will be given new instructions to analyse and develop proposals on this.

Detention of asylum seekers

- ❖ **Detention conditions:** In March 2022 the Parliamentary Ombudsman (JO) made an inspection in accordance with the Optional Protocol to the Convention against Torture at the detention centre in Mårsta. JO expressed concerns about several issues: detainees secluded for longer periods of time; secluded rooms having camera surveillance all day long, a very serious breach of a person's privacy; personal information about the detainees written by staff on boards in a manner that made it possible for other detainees to see. In a decision dated in May 2022 the Human Rights Council Working Group on Arbitrary Detention expressed concerns at the very serious allegations concerning the lack of appropriate treatment provided to a detainee in Sweden for his health condition and recalled that all persons detained must be treated with humanity.⁶

Content of international protection

- ❖ **The Government platform agreement – Tidö Agreement:** According to the political agreement in October 2022 between the new Government political parties and the Sweden Democrats a new inquiry shall propose additional conditions to qualify for Swedish citizenship, such as longer habitual residence, and sufficient resources to maintain oneself. The agreement also expresses that further restrictions and conditions for family reunification shall be assessed by an inquiry.
- ❖ **Family reunification:** In December 2022, the Migration Court of Appeal ruled in case MIG 2022:11⁷ and found that when determining the age of the sponsor the relevant time should be the time of application for family reunification if the reference person is under 18 years when the application for family reunification is lodged. There shall be no condition that the application must be lodged within three months from the decision of residence permit for the reference person if the reference person is under 18 years at the time of application. In September 2022, the SMA

⁴ Migration Court of Appeal, 10 November 2022, MIG 2022:9, available in Swedish at: <https://bit.ly/3zal3G2>.

⁵ SMA, Legal position RS/089/2021, *Prövning av skyddsbehov m.m. för medborgare från Afghanistan*, last updated 24 January 2023, available in Swedish at: <http://bit.ly/3zaBcw6>.

⁶ Human Rights Council Working Group on Arbitrary Detention, *Opinion No. 26/2022 concerning Hassan Fazali (Sweden)*, 19 May 2022, available at: <https://bit.ly/3INcUFv>.

⁷ Migration Court of Appeal, 8 December 2022, MIG 2022:11, available in Swedish at: <https://bit.ly/3WAhx2c>.

issued a legal position in 2022 regarding the relevant time for determining the age of the applicant or the sponsor. For a child who apply to a reunite with a parent in Sweden the relevant time is the time of application for family reunification, or, in cases when the application for family reunification is made within three months from when the parent was granted residence permit and protection status the relevant time is when the parent applied for asylum. For a parent who applies to reunite with a child in Sweden the relevant time for determining the age of the child/reference person is the time of application for family reunification, or, in cases when the child was under 18 years when applying for asylum but has turned 18 years at the time of application for family reunification, that child is still considered as a child if the application for family reunification was lodged within three months from the date the child was granted residence permit.

Temporary protection

The information given hereafter constitute a short summary of the 2022 Report on Temporary Protection, for further information, see [Annex on Temporary Protection](#).

- ❖ **Key temporary protection statistics:** In 2022, the Swedish Migration Agency registered 50,357 applications for temporary protection. Of those applications, 49,275 were Ukrainian nationals, and 203 were Russian nationals. The Migration Agency took decisions in 49,266 of these applications, and of those tried on the merits, 47,310 (100%) were granted residence permit.

Temporary protection procedure

- ❖ **Asylum and expulsion enforcement:** 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.
- ❖ **Scope of temporary protection:** after initially only granting Temporary protection to persons falling within the narrow scope of persons eligible for protection under the EU Council decision, for persons who left on or after 24 February 2022, the Government 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 had entered Sweden from 30 October 2021 to 23 February 2022 and remained in the country.
- ❖ **Online procedure:** The Swedish Migration Agency developed online tools for applying for Temporary Protection, both for first-time applicants and for those applying for extensions.

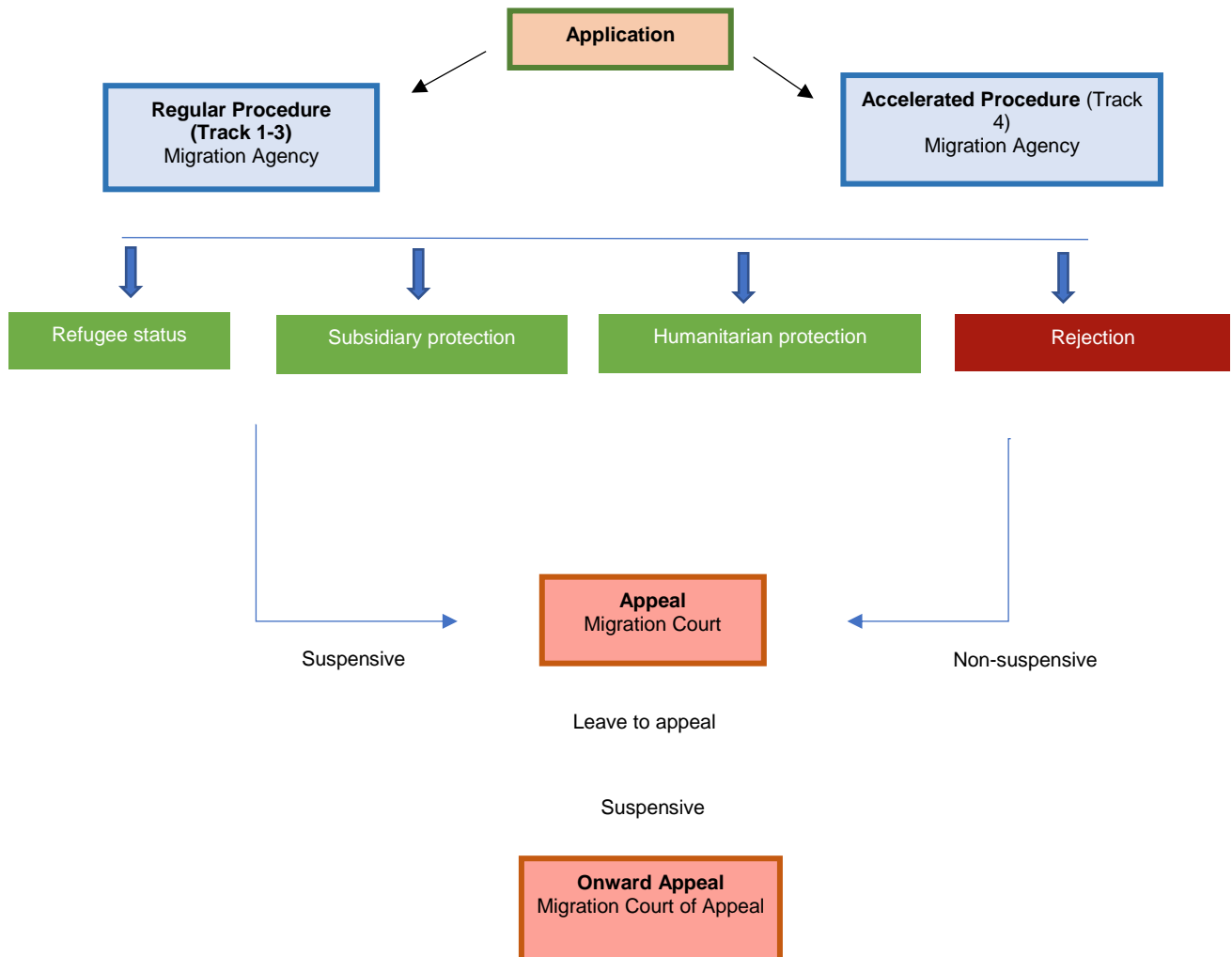
Content of temporary protection

- ❖ **Financial support:** Temporary protection holders are only provided with financial support at the same low level as for asylum-seekers, which has not been increased since 1994, and are only entitled to healthcare that cannot be postponed.

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 the applicant was notified of the last instance decision or judgment. A decision is statute-barred 4 years after the date of legal force.

2. Types of procedures

Indicators: Types of Procedures

Which types of procedures exist in your country?

- | | | |
|---|---|--|
| ❖ Regular procedure: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ▪ Prioritised examination: ⁸ | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ▪ Fast-track processing: ⁹ | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ Dublin procedure: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ Admissibility procedure: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ Border procedure: | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| ❖ Accelerated procedure: ¹⁰ | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ Other: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |

Are any of the procedures that are foreseen in the law, not being applied in practice? ☐ 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 Swedish Security Service also have the authority to intervene and initiate a procedure stipulated in Act concerning Special Controls of Certain Aliens (2022:700) at all stages of the procedure in cases raising issues of national security, or when individuals can be assumed to participate in or commit crimes stipulated in The Terrorist Offences Act. They can intervene in cases regarding residence permit, refugee status determination and travel documents.

⁸ For applications likely to be well-founded or made by vulnerable applicants.

⁹ Accelerating the processing of specific caseloads as part of the regular procedure, without reducing procedural guarantees.

¹⁰ Entailing lower procedural safeguards, whether labelled as “accelerated procedure” in national law or not.

4. Determining authority

Name in English	Number of staff on average in 2022	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	5,773	Ministry of Justice	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Source: Migration Agency, *Annual Report 2022*, Dnr: 1.3.2-2023-2262, available in Swedish at: <http://bitly.ws/AUE8>, 37.

Swedish administrative system

The administrative system in Sweden differs to 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 of Certain Aliens may be used (2022:700).¹¹ The Act entered into force on 1 July 2022 and replaced the previous Act concerning Special Controls in Respect of Aliens (1991:572). According to Chapter 1, Section 2, the latter Act becomes applicable upon request of the Swedish Security Service. An expulsion decision is, however, according to Chapter 2, Section 1 always issued by the Migration Agency at first instance. According to Chapter 7, Section 1 of the Act, the Migration Agency's decision can be appealed to the Government.

According to Chapter 7, Section 14 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 whether there are impediments to enforce an expulsion in accordance with Chapter 12 Section 1-3a of the Swedish Alien's Act [*non-refoulement*], and thereafter hand the case over to the government for a final decision. If the Migration Court of Appeal considers that there are such impediments, the Government cannot deviate from that assessment. If the SMA has decided in a case on both expulsion and regarding an application for protection status, an appeal shall, according to Chapter 7, Section 16 of the Act, instead follow the appeals procedure set out in the Aliens Act. However, this is not the case if the Security Services also appeals the SMA's decision.

The government made seven decisions under the Act concerning Special Controls in Respect of Aliens between 1 July 2021 and 30 June 2022, compared to eight decisions in the previous corresponding period. Two of the decisions concerned dismissals of appeals against decisions of the Swedish Migration Agency regarding expulsion. The other five decisions concerned rejection of requests for reconsideration of expulsion decisions upon request from the individual.¹²

¹¹ Act concerning Special Controls of Certain Aliens (2022:700), available in Swedish at: <http://bitly.ws/z8C8>.

¹² See: Government, *regeringens skrivelse 2022/23:38*, 2022 års redogörelse för tillämpningen av lagen om särskild utlänningskontroll, available in Swedish at: <http://bitly.ws/z8BN>.

Swedish Migration Agency

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

The Migration Agency is subordinate to the Government as a whole and reports to the Ministry of Justice, with which it cooperates at various levels, such as information exchange, planning and expression of needs. The Government also regulates the direction and priorities of the Swedish Migration Agency.¹³ 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.¹⁴ 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 Aliens Act and the Ordinance with Instructions for the Migration Agency.

The Migration Agency is headed by a Director General, who is appointed by the government. The Director General is responsible before the Government for the Agency, its operations and its results. The Director General is generally not involved in individual decision making but can have an influence on policies. The current Director General, Mikael Ribbenvik, is also the Chair of the Management Board of EUAA. 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.¹⁵ The head office is located in **Norrköping**.

Stand-alone functions are 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'.¹⁶ Also, webinars were developed for case officers and other employees at the SMA, which are available after the live transmission. The "focus country pages" on the Lifos website were also enhanced by including recommended reading on various topics and main countries of origin.¹⁷

¹³ The Migration Agency, 'Laws and regulations', available at: <http://bitly.ws/z8HA>.

¹⁴ Instrument of Government, Ch. 12, Section 2, available in Swedish at: <https://bit.ly/3ccbSJ7>.

¹⁵ The Migration Agency, 'Our organisation', available at: <http://bit.ly/2P6GRQ7>.

¹⁶ The Migration Agency, *Tematisk kvalitetsuppföljning avseende asylsökande barn i familj*, Dnr: 1.3.4-2022-26331, December 2022, available in Swedish at: <https://bit.ly/3R4IOU8>.

¹⁷ EUAA, *Asylum Report 2022: Annual Report on the Situation of Asylum in the European Union*, June 2022, available at: <http://bitly.ws/AUaD>.

MIGRATIONSVERKETS REGIONINDELNING

2022-07-01

TECKENFÖRKLARING

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

LÄNSFÖRDELNING I REGIONERNA

Region Nord:

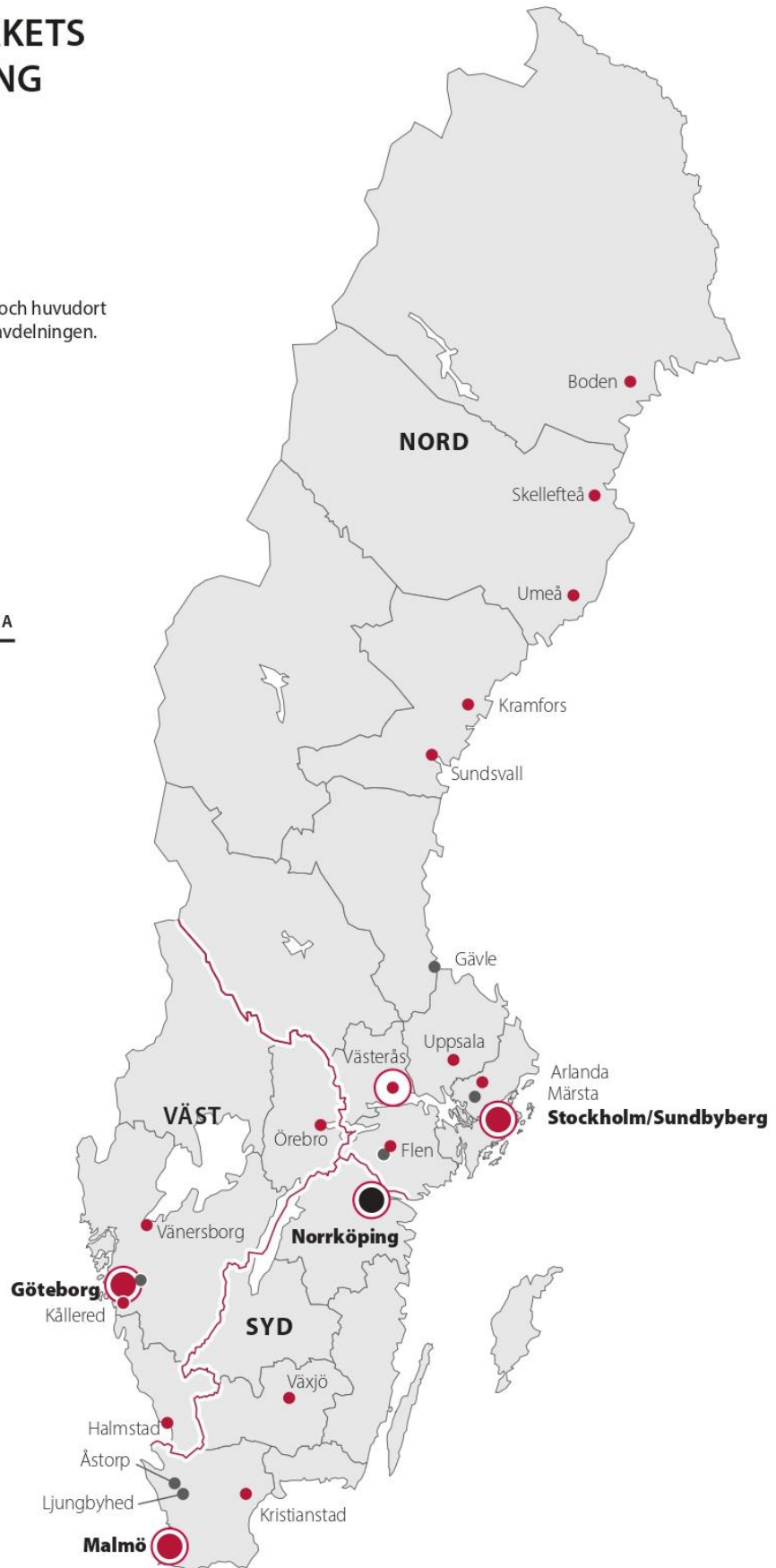
Norrbottnens län
Västerbottens län
Jämtlands län
Västernorrlands län
Dalarnas län
Gävleborgs län
Uppsala län
Västmanlands län
Stockholms län
Södermanlands län
Gotlands län

Region Väst:

Värmlands län
Örebro län
Västra Götalands län
Hallands län

Region Syd:

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



Quality control and assurance within the Migration Agency

The Migration Agency works with internal 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 are 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:¹⁸

- ❖ Has the investigation been conducted according to the nature of the case? Was there too little or too much investigation?
- ❖ 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?
- ❖ Is the language used simple and comprehensible?
- ❖ Is the outcome of the case correct?
- ❖ Is the classification of the decision correct? (if appropriate)
- ❖ Is the length of the permit granted correct? (if appropriate)

Staffing within the Migration Agency¹⁹

The Migration Agency had had an average of 5,773 employees in the year 2022. Out of the total number of employees in 2022, 349 were working as case officers and 180 as decision makers in asylum cases.²⁰ In 2022, the average age was 41 for women and 43 for men. The average period of employment was 9 years.²¹

The Migration Agency have an obligation to report suspected war crimes. In 2020, the Agency reported 86 suspected war crimes to the police, and 74 in 2021. In 2022 the Agency reported 37 cases of suspected war crimes.²² To the authors' knowledge, no such reports have led to an indictment (yet). It is not possible to know how many criminal investigations on the basis of these reports are ongoing as they are confidential until the indictment.

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.

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. Intention to apply is not foreseen by any legal provision of Swedish law. However, a declaration of intention to apply for asylum which is made before an authority and is documented in writing, and then followed through, shall be considered the date on which the asylum application was made.²³ The Migration Agency states that the protection process

¹⁸ The Migration Agency, Kvalitetsuppföljningar av rättslig kvalitet i Migrationsverkets processer, RC A - 04/2019.

¹⁹ Geographical overview of Migration Agency's regional divisions, available in Swedish at Migration Agency website at <https://bit.ly/3syur23>.

²⁰ Information from the Migration Agency in January 2023.

²¹ Migration Agency, *Annual Report 2022*, Dnr: 1.3.2-2022-2199, available in Swedish at: <http://bitly.ws/AUE8>, 37.

²² Migration Agency, *Annual Report 2022*, Dnr: 1.3.2-2022-2199, available in Swedish at: <http://bitly.ws/AUE8>

²³ The Swedish Migration Agency's regulations on reception of asylum seekers etc., MIGRFS 2022:5, available in Swedish at: <http://bitly.ws/AUBK>, 7§.

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.²⁴ 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 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

²⁴ Migration Agency, *Rutin: Spårindela ärendet*.

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. 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 deemed 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.²⁵

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.²⁶ At the appeal stage, a request for legal assistance can be made but will not automatically be approved, especially if the court deems that the appeal is unlikely to be successful.²⁷ 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.

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 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.²⁸ 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.

¹⁸ 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>.

²⁶ ECtHR, *M.S.S. v. Belgium and Greece*, Application No 30696/09, Judgment of 21 January 2011, available at: <https://bit.ly/3R6Px5c>; ECtHR, *Tarakhel v. Switzerland*, Application No 29217/12, Judgment of 4 November 2014, available at: <http://bit.ly/3JtwkJd>.

²⁷ Migration Court of Appeal, UM 5998-14 and UM 3055-14, 19 December 2014.

²⁸ Migration Court of Appeal, Decision MIG 2007:22, 23 May 2007, available at: <http://bit.ly/3wp7Rg3>.

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

In 2022, the Migration Courts in total overturned decisions of the Migration Agency in 6% of regular asylum cases. This marks a slight decrease compared to 2021, when the Migration Courts overturned decisions of the Migration Agency in 7% of cases.²⁹

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 if not. 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."³⁰ Such exceptional reasons can exist where the Migration Agency has made a serious procedural error. Automatic 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 certain circumstances, including cases concerning national security, such time limit can be even shorter or not given at all.³¹

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.³²

²⁹ The Swedish Migration Agency, Monthly Report – December 2022, Dnr: 1.1.1.2-2022-1381.

³⁰ Ch. 16, Section 12 Aliens Act.

³¹ Ch. 8, Section 21 Aliens Act.

³² Migration Court of Appeal, Decision MIG 2020:3, 14 February 2020, available at: <http://bit.ly/3HEv125>.

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
3. Who is responsible for border monitoring? ☐ National authorities ☐ NGOs ☐ Other
4. 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 2023.³³ 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.

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. Currently, there are no travel restrictions due to Covid-19. Between 7 January and 19 February 2023, travellers from China over 12 years old were required to present a negative Covid-19 test when travelling to Sweden directly from China, however asylum seekers were exempt from this requirement.³⁴

Legal access to the territory (beyond family reunification)

Sweden does not have any provisions for granting a visa for the purpose of applying for international protection upon arrival.

The Migration Agency resettled 3,744 refugees in 2022, in comparison to 6,411 refugees in 2021, and 3,599 refugees in 2020. In addition to the annual quota of 5,000 refugees for 2021, Sweden decided to resettle 1,400 individuals who were selected in 2020 but could not be transferred during the year due to COVID-19 pandemic. This explains the higher number of quota refugees transferred in 2021 compared to 2020. The number also included Afghan nationals who were evacuated in August 2021. In the period August–December 2021, 1,300 Afghan nationals were granted permanent residence permits and resettled in Sweden under the resettlement framework.³⁵ The new Swedish Government has decided to reduce the number of resettled refugees to 900 for the year 2023.³⁶

Sweden does not have any relocation operations in place.

³³ Government Offices of Sweden, 'Reintroduced temporary internal border controls', 11 November 2022, available at: <http://bit.ly/3Hw72IO>.

³⁴ The Police Authority, 'Border police – the work of the police', available at: <http://bitly.ws/z9Ma>.

³⁵ EUAA, *Asylum Report 2022: Annual Report on the Situation of Asylum in the European Union*, June 2022, available at: <http://bitly.ws/AUaD>, 251.

³⁶ Government of Sweden, 'Regeringens första 100 dagar: Migration', 24 January 2023, available in Swedish at: <http://bit.ly/3nlUgF7>.

2. Registration of the asylum application

Indicators: Registration

1. Are specific time limits laid down in law for making an application? ☐ Yes ☒ No
❖ If so, what is the time limit for lodging an application?
2. Are specific time limits laid down in law for lodging an application? ☐ Yes ☒ No
❖ If so, what is the time limit for lodging an application?
3. Are registration and lodging distinct stages in the law or in practice? ☐ Yes ☒ No
4. Is the authority with which the application is lodged also the authority responsible for its examination? ☒ Yes ☐ No
5. Can an application for international protection 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 2022, 16,738 preliminary applications for international protection were lodged in Sweden. This marks an increase of 48% compared to 2021, where 11,412 applications were lodged.³⁷ In comparison, in 2022 the number on asylum applications the EU increased by more than 50%.³⁸

In 2022, 16,738 applications were lodged in Sweden, with the majority being lodged in **Stockholm** (8,466), in **Malmö** (3,345) and in **Gothenburg** (3,332).³⁹

Applications lodged by location: 2022	
Locations	Number of applicants
Arlanda	949
Boden	120
Borås	0
Flen	16
Gävle	1
Gothenburg	3,332
Halmstad	9
Jönköping	0
Kramfors	0
Kristianstad	22

³⁷ SMA, *Applications for asylum received 2022*, and *Applications for asylum received 2021*, available in Swedish at: <http://bitly.ws/AVIM>.

³⁸ EUAA, 'Latest Asylum Trends - Annual Overview 2022', available at: <https://bit.ly/3lqzIYm>.

³⁹ Swedish Migration Agency, *Applications for asylum received 2022*, available in Swedish at: <http://bitly.ws/AVIM>.

Malmö	3,345
Märsta	1
Norrköping	66
Skellefteå	14
Stockholm	8,466
Sundsvall	168
Umeå	14
Uppsala	74
Vänersborg	17
Västerås	19
Växjö	15
Åstorp	5
Örebro	27
Other	58
Total	16,738

Source: Swedish Migration Agency, *Applications for asylum received 2022*, available at: <http://bitly.ws/AVIW>

The Swedish Migration Agency is also in charge of running the detention centres. The authors are not aware of difficulties with regard to persons in detention wishing to apply for asylum.

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 their 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 2022, i.e. registration remained accessible during COVID-19.

Asylum seekers are issued with a card that shows that they are asylum seekers in Sweden. This card is called a LMA card. It is not an ID document as such, but a certificate that asylum seekers can use to show that they are asylum seekers and that they may be in Sweden when their applications are being processed. The card also shows if the person has the right to work.⁴⁰

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”).

⁴⁰ The Migration Agency, ‘LMA card for asylum seekers’, available at: <http://bitly.ws/zb7q>.

Applications for international protection by track		
	2021	2022
Track 1 – Presumed positive outcome	897	1,319
Track 2 – Presumed negative outcome	6,204	9,031
Track 3 – Delayed case processing	34	23
Track 4A – Accelerated procedure	343	483
Track 4B – Safe country origin	1,605	1,880
Track 5A – Dublin procedure	1,017	1,420
Track 5B and 5C – Admissibility procedure	210 (Track 5B) and 6 (Track 5C)	216
“Unknown”	1,029	2,366
Total	11,428	16,738

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 at first instance as of 31 December 2022: 6,859
4. Average length of the first instance procedure in 2022: Track 1: 133 days
Track 2: 219 days

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 total of 302 days, but decreased again to 256 days in 2021. For 2022 the number decreased to 166 days.

Average length of the asylum procedure: 2018-2022				
2018	2019	2020	2021	2022
507 days - 16.9 months	288 days – 9.6 months	302 days – 10.1 months	256 days – 8.5 months	166 days – 5.5 months

Source: Swedish Migration Agency, *Monthly Statistical Report December 2022*

The increase of the average length of the procedure in 2020 is due *inter alia* to the impact of COVID-19. The Migration Agency suspended most of its interviews for a two-week period in March 2020.⁴¹ The Migration Agency increased its capacity to conduct interviews remotely via video and the interview rooms were equipped with protective equipment during the summer.⁴² The average length of the procedure decreased in 2022. A total of 1,620 out of 13,252 asylum investigations were conducted by video by the Migration Agency during 2022.⁴³

The Migration Agency decided on 44,156 applications for international protection in 2022. This included 14,245 decisions on new applications and 29,911 prolongation decisions where renewal of a temporary protection permit was requested.⁴⁴ The backlog of pending cases increased from 5,906 at the end of 2021 to 9,096 at the end of 2022.

The time limit for the SMA to make a decision on an asylum application is 6 months from the date the application is received. However, in exceptional circumstances, the time limit can be extended with up to an additional 9 months.⁴⁵ If the SMA does not respect the time limit for a decision, the applicant can make a complaint to the Parliamentary Ombudsmen (JO), which could result in criticism of the SMA. Additionally, the applicant has the option to request the SMA to make a decision even after the time limit has expired. Other than this there are no consequences for not respecting the time limits.

According to The Swedish Refugee Law Center, significant differences exist between the asylum assessment units of the SMA with regards to approval rates and grant reasons. Although caution should be exercised when interpreting the statistics, as the analysis is based on a limited number of decisions (98), it is noteworthy that Stockholm approved asylum in 85% of Afghan asylum cases in the summer of 2022, while the overall approval rate in Gothenburg was only 28% during the same period.⁴⁶

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

As outlined in the [Short overview of the asylum procedure](#), the Migration Agency 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

⁴¹ Swedish Migration Agency, *Annual Report 2020*, available in Swedish at: <https://bit.ly/42Ura02>, 38.

⁴² Migration Agency, *Annual Report 2021*, available in Swedish at: <https://bit.ly/3KTSUYy>

⁴³ Information provided by the Swedish Migration Agency's statistical unit in March 2023.

⁴⁴ Migration Agency, *Annual Report 2021*, available in Swedish at: <https://bit.ly/3KTSUYy>

⁴⁵ Ch. 8, section 10, The Aliens Regulation.

⁴⁶ Swedish Refugee Law Center, *Flyktingskapsbedömningar i första instans – ett år efter talibanernas maktövertagande i Afghanistan*, 2022, available in Swedish at: <https://bit.ly/3Jnbf2G>, 42.

cases were open at the end of the year.⁴⁷ 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.⁴⁸ In 2022, the number of applications assigned to Track 1 increased to 1,319. A total of 1,107 decisions were delivered and 594 cases were open at the end of the year.⁴⁹

There is a presumption (an assumption that applies until proven otherwise) of approval when the Migration Agency assesses that everyone coming from a certain country, area, or belonging to a certain group, generally needs protection.⁵⁰

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.⁵¹ 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. These interviews are not held at the same time. The interview regarding the applicant's personal details such as health and general background usually takes place at the time of application. The interview regarding the grounds for asylum is held later in the presence of a legal representative. A decision on the merits is taken by two persons: the case officer and a decision maker. The difference between the two is that the case officer is responsible for the management of the case, which include administrative tasks, conducting the interview and writing a proposed decision. The decision maker has 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.⁵²

⁴⁷ Information provided by the Swedish Migration Agency.

⁴⁸ Information provided by the Swedish Migration Agency.

⁴⁹ Information provided by the Swedish Migration Agency's statistical unit in January 2023.

⁵⁰ Information from the Migration Agency's routine document for categorizing cases into tracks.

⁵¹ Chapter 13 Section 1 Aliens Act.

⁵² Gothenburg University, *Värdering av muntliga utsagor, ett vetenskapligt baserat beslutsstöd för migrationsärenden*, 2017, available in Swedish at: <https://bit.ly/37iJFzV>.

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: 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.⁵³

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.⁵⁴ 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. The number of asylum interviews conducted by video decreased in 2022 to 1,620 out of 13,252. The Migration Agency did not take a decision to remove protective equipment. Instead, the regions themselves removed equipment at their own pace. It has been an intentional decision to keep protective equipment such as plexiglass and plastic curtains in investigation rooms as well as in reception areas, which is why it may vary between regions.

The Migration Agency has also not renovated the rooms to make them larger. Instead, opportunities for video investigations have been created on-site, which means that the applicant has been in one room and the SMA staff in another room, and then they connected via video to conduct the investigation. For example, there are still some such rooms in Malmö, and the Migrations Agency still has plexiglass in reception areas. In the investigation zone, Malmö has one room left with plastic curtains, but we can see that the curtain is often taken down during the investigation, usually after an agreement between the applicant, the legal representative and interpreter. In the North region, they did not want to work with video interviews and therefore quickly switched to physical protective barriers, such as protective glass.

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.⁵⁵ The Migration Agency have confirmed that conducting interviews by video is not a new procedure, that it has been conducted for several years for certain types of cases and that it works well.⁵⁶ The Migration Agency also stated that online interviews allow for respect of legal safeguards equally as physical meetings do.⁵⁷ These have mainly been conducted with applicants who lived far from the investigation location in order to minimize costs and time for the applicant. In other cases, the applicant has special needs that make an investigation via video link more suitable based on those needs. During the pandemic the need for investigations via video link increased, but with a shortage of sufficient rooms, not all investigations were conducted in this way. There may also be cases where a video investigation is less suitable. Communication can be limited in video investigations, which can create misunderstandings and frustration among those present. This should be particularly considered in cases where the applicant has special needs. Examples of circumstances that may make video investigations less suitable are when

⁵³ Swedish Refugee Law Center, *Tillförlitliga kriterier? En granskning av Migrationsverkets tillförlitlighetsbedömningar av asylberättelser*, 2019, available in Swedish at: <https://bit.ly/3dtvDMn>.

⁵⁴ Information provided by the Swedish Migration Agency.

⁵⁵ Information provided by lawyers from the Swedish Refugee Law Center on March 2021.

⁵⁶ Sveriges Radio, 'Kritik mot asylutredningar på distans', April 2020, available in Swedish at: <http://bit.ly/2ZVBipR>.

⁵⁷ FRA, *Migration: Key Fundamental Rights Concerns*, November 2020, available at: <https://bit.ly/2YThMtx>, 23.

those being investigated are traumatized, have a hearing or visual impairment, where difficult and complicated events need to be clarified, or where there has previously been an issue with interpretation. A started interpretation assignment that prove not to be optimal or suitable for the specific investigation situation can be cancelled and rebooked, usually for a physical investigation.

Several NGOs such as the Swedish Refugee Law Centre, Save the Children, Amnesty Sweden and Stockholm City Mission have reported however that individual applications may have been negatively affected as applicants could not meet their public counsel due to COVID-19 restrictions.⁵⁸

1.3.1. Interpretation

The applicant may request an interpreter and interviewer of a certain gender.⁵⁹ The Migration Agency shall accommodate these requests if possible.⁶⁰ 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 can be interviewed by a case officer wearing a hijab. Occasionally, interpreters request to be relieved of their task because the case concerns a convert from Islam. There is also a lack of knowledge of the relevant vocabulary amongst case officers and interpreters which has been noted by the authorities. 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. In the agreement between the parties in the new government and the Sweden Democrats, the Tidö Agreement, it is stated that a review of the asylum process will be conducted with the aim of enhancing its quality, consistency, and legal certainty. The review shall among other things look at criteria for legal representatives, interpreters and lay judges and the assessment of conversion and LGBTQI+ cases.⁶¹

In 2020, the Agency also analysed cases concerning Afghans, which is a category of cases where claims based on religion occur, that had been overturned in the courts in 2019. The Agency found that the proportion of cases overturned 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%

⁵⁸ Ibid.

⁵⁹ Ch. 8, Section 9 c Aliens Ordinance Act.

⁶⁰ Ibid. Note that Article 15.3(c) recast Asylum Procedures Directive introduces that obligation "wherever possible".

⁶¹ *Tidöavtalet*, available in Swedish at: <https://bit.ly/3IHYPYr9>, 45.

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.⁶² 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%).⁶³

Only translators authorised by the Legal, Financial and Administrative Services Agency (*Kammarkollegiet*) have the right to designate themselves as authorised translators. Authorisation is awarded after a demanding written examination, consisting of texts on legal, economic and general topics. Authorised translators are required to observe high professional standards, which include maintaining confidentiality and only taking on assignments they are capable of completing in a satisfactory manner. Likewise, only interpreters authorised by the Legal, Financial and Administrative Services Agency may refer to themselves as authorised interpreters. To obtain authorisation, interpreters have to show in written and oral examinations that they have a good command of both Swedish and the other language concerned, as well as the necessary interpreting skills. They must also have a basic understanding of areas such as social services and social security, health care, employment and general law, and of the terminology used in these fields.⁶⁴

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 2021.⁶⁵ 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 also commissioned a wider report on interpretation services which put forward a number of proposals.⁶⁶ A number of strategic goals for 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.

⁶² Migration Agency, *Annual Report 2019*, available in Swedish at: <https://bit.ly/3nw7dw0>, 38-39.

⁶³ Migration Agency, *Annual Report 2021*, available in Swedish at: <https://bit.ly/3KTSUYy>, 96.

⁶⁴ Kammarkollegiet, *Kammarkollegiets tolkföreskrifter*, KAMFS 2021:2, 30 June 2021, available in Swedish at: <https://bit.ly/3wBDF10>.

⁶⁵ Kammarkollegiet, *Kammarkollegiets tolkföreskrifter*, KAMFS 2021:2, 30 June 2021, available in Swedish at: <https://bit.ly/3wBDF10>.

⁶⁶ 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.

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 their 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 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.⁶⁷ 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 increased in 2020 and 2021, in particular before the interview rooms were adapted to COVID-19 with protecting equipment during the summer of 2020. In 2022 the number of video interviews decreased due to the fact that Covid-19 is no longer classified as a socially dangerous disease.

1.4. Appeal

Indicators: Regular Procedure: Appeal

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

- | | | |
|--|--|--|
| ❖ If yes, is it | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ If yes, is it automatically suspensive | <input checked="" type="checkbox"/> Judicial | <input type="checkbox"/> Administrative |
| | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> Some grounds <input type="checkbox"/> No |

2. Average processing time for the appeal body to make a decision: 9.5 months

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

⁶⁷ 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.

1.4.1. Appeal before the Migration Court

A refusal decision by the Migration Agency can be appealed before the Migration Court and this appeal has suspensive effect under the regular procedure.⁶⁸ In manifestly unfounded cases, the appeal has automatic suspensive effect until the Migration Court has decided on whether the removal shall be suspended during its proceedings.⁶⁹ Decisions regarding this shall be taken urgently by the Court, and the Court can decide that the removal shall be suspended e.g. based on the merits of the case, if there are indications of procedural flaws or if it considers that it needs further information,

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.⁷⁰ The written decision is communicated orally to the asylum seeker by a staff member of the Migration Agency's nearest reception centre with the assistance of an interpreter, often available by telephone, in a language understood by the applicant. It is the duty of the legal representative to contact their client regarding the decision and to submit an appeal against the refusal decision if the client so requests. This duty is not laid down in law and there are no legal sanctions against the legal representative if the deadline is missed. The Swedish Bar Association can issue disciplinary sanctions against a legal representative if they are 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.

There is a secure online portal through which relevant documents can be submitted and files are kept.⁷¹ It is the lawyer's responsible to ensure pleadings and appeals are submitted on time. The applicant does not have access to the portal, however if they wish to access the documents, they can ask their lawyer or the Migration Agency. The Migration Agency will either send the documents by mail or hand them over the counter in one of the Migration Agency's offices.

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.⁷² In 2020, the Migration Agency also changed its initial decision in 1 case (out of 15,299 decided cases). In 2022, the SMA changed their initial decision in two cases (out of 8,036 cases).⁷³ 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

⁶⁸ Ch. 12, Section 10 Aliens Act.

⁶⁹ Ch. 12, Section 8a Aliens Act.

⁷⁰ Ch. 23 Section 2 Administrative Law (Förvaltningslagen).

⁷¹ EASO, *Asylum Report 2020: Annual Report of the Situation of Asylum in the European Union*, July 2020, <https://bit.ly/30cGzxc>, 164.

⁷² Swedish Migration Agency, *Monthly Statistical Report December 2021*, DNR: 1.1.1.2-2021-2118.

⁷³ Swedish Migration Agency, *Monthly Statistical Report December 2022*, DNR: 1.1.1.2-2022-1381.

further translation is necessary. In 2021, a total of 9,695 cases were forwarded to the Migration Courts.⁷⁴ In 2022, the total number of forwarded asylum cases was 7,855.⁷⁵

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%), Gothenburg (25.46% and lastly Stockholm (15.53%).⁷⁶ For 2022 the largest proportion was again in Malmö (33.6%), followed by Luleå (22.7%), Stockholm (19.6%) and Gothenburg (18.7%).⁷⁷

Oral hearings held by the Migration Courts ⁷⁸		
Court	Total hearings	
	2021	2022
Malmö	584	232
Gothenburg	721	468
Luleå	245	129
Stockholm	940	561
Total	2,490	1,390

In 2022, 1,390 cases where oral hearings had been held were concluded in the Migration Courts. This is a significant reduction compared to 2021, when 2,490 oral hearings were held in Migration Courts. 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. If the court finds indications for confidentiality in the case before the oral hearing, it can choose to keep the name of the appellant confidential and the name will then not appear on screens in the courthouse or be mentioned when the court calls on the hearing to start. This can for example be the case when the case contains sensitive information or if the appellant comes from a country that is suspected of tracking information about refugees from that country. The judge may, however, override 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 2022 was 9,5 months, which is an increase from 7.9 months in 2021. The Migration Courts changed 9,6% of the appealed asylum cases.⁷⁹

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).

⁷⁴ Swedish Migration Agency, *Monthly Statistical Report December 2021*, DNR: 1.1.1.2-2021-2118.

⁷⁵ Swedish Migration Agency, *Monthly Statistical Report December 2022*, DNR: 1.1.1.2-2022-1381.

⁷⁶ Statistics provided by the National Courts Authority in January 2022.

⁷⁷ Statistics provided by the National Courts Authority in January 2023. The numbers are extracted from the number of asylum cases decided on where oral hearings had been conducted ("FR Rapport 300 Förh tid I avgjorda mål 2022") and the number of concluded asylum cases (Avlägsnandemål asyl, "FR KR Rapport 100 Ink, avg.bal per målkat 2022").

⁷⁸ Statistics provided by the National Courts Authority in January 2022 and January 2023.

⁷⁹ Statistics provided by the National Courts Authority in January 2022 and January 2023.

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 their case. An interpreter financed by the state 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.⁸⁰

However, there is a mechanism whereby an appeal can be made to have the late submission accepted by the court.⁸¹ 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.⁸² 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.⁸³ There are no statutory deadlines during the actual proceedings. Administrative courts can decide for themselves which time limits should apply to, for example, requests for deferrals. Usually, this deadline is a few weeks.

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."⁸⁴

In general administrative procedure law, there is a further ground for leave to appeal "if reason exists for an amendment of the conclusion made by the county administrative court".⁸⁵ 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.⁸⁶ 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

⁸⁰ Paragraph 6 Administrative Procedure Act (Förvaltningsprocesslagen).

⁸¹ Paragraph 37 b Administrative Procedure Act.

⁸² Paragraph 9 Administrative Procedure Act.

⁸³ Paragraph 37 b, Administrative Procedure Law.

⁸⁴ Ch. 16, Section 12 Aliens Act.

⁸⁵ Section 34a(2) Administrative Court Procedure Act (1971:291).

⁸⁶ Ch. 16, Section 10 Aliens Act.

appeal is granted, a decision is taken by three judges, while exceptionally important cases are decided by a panel of seven judges.

Free legal aid is provided for public counsel to make an application for leave to appeal. If leave is granted, then further legal aid is provided. Until a decision on leave to appeal is handed down, the appeal has suspensive effect.⁸⁷ If leave is refused, the expulsion order is legally enforceable from the date of refusal.

In 2022 a total of 4,832 appeals were made to the Migration Court of Appeal in asylum cases and the latter decided upon 4,941 cases:

Appeals before the Migration Court of Appeal				
	2019	2020	2021	2022
Total number of appeals lodged	10,529	8,358	6,407	4,832
Total number of decisions	10,704	8,560	6,388	4,941
<i>Leave to appeal rejected</i>	10,319	8,336	6,373	4,788
<i>Leave to appeal granted</i>	54	49	59	13
<i>Appeals accepted</i>	4	6	1	1
<i>Appeals rejected</i>	27	22	45	0
<i>Appeals referred back to lower instances</i>	23	21	13	7

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 2022.

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.⁸⁸ 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.⁸⁹

In February 2022, the Migration Court of Appeal ruled that, in cases where a family member presents new grounds for asylum during the proceedings in the Migration Court, the starting point should be that the family must be kept together; thus, the assessment as to all family members' right to reside in Sweden should be kept together as well, as the right of one family member may affect that of others. So, if the Migration Court decides to refer one family member's case back to the SMA for further examination, the other family members' cases should be referred back as well. Otherwise, a situation could arise where

⁸⁷ Ch. 16, Section 10 Aliens Act.

⁸⁸ Ch. 2a, Special Control of Aliens Act (Lagen om särskild utlänningskontroll) 1991:572.

⁸⁹ Ch. 10, Special Control of Aliens Act.

parts of the family would have enforceable expulsion decisions when another family member's new grounds for asylum are being assessed.⁹⁰

In November 2022, the Migration Court of Appeal ruled in case MIG 2022:9, and expressed that the principle of family unit does not include a separate right to refugee status for a family member of a refugee if the family member lacks individual protection grounds.

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.⁹¹ The only times where the right to legal assistance is conditional are 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. The conditions are then that the person must be in Sweden and that it is not obvious that the appeal does not have a reasonable prospect of success. When the application is presumed to be granted, it is often determined that no legal assistance is needed and hence will not be provided.⁹²

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.⁹³

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

⁹⁰ Migration Court of Appeal, Decision MIG 2022:2, 25 February 2022, available in Swedish at: <https://bit.ly/3zcEKhD>.

⁹¹ Chapter 18, Section 1 Aliens Act.

⁹² Chapter 18, Section 1a Aliens Act.

⁹³ Migration Court of Appeal, Decision MIG 2017:21, UM8311-17, 14 November 2017, available in Swedish at: <https://bit.ly/3dg0Ky8>.

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 (SEK 1,442, not including VAT).⁹⁴ 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 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.⁹⁵ Several documents were issued and initiatives raised⁹⁶ but nothing was considered when the Alien Act and related legislative acts were amended in July 2021.⁹⁷ In a report in June 2022, the Swedish National Audit Office identified problems in the system regarding public counsels in migration cases, including that some persons had been able to continue working as public counsels after having being convicted of serious offences or having been disbarred.⁹⁸ Following this, the Government initiated an inquiry to examine certain aspects regarding public counsels. The inquiry shall present its findings and proposals on 1 June 2023.⁹⁹

The Swedish Migration Agency maintains a list of persons who have registered with them 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 2023.¹⁰⁰ 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 their 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.¹⁰¹ The Migration Agency does not have reliable data on this for 2021. In 2022 legal counsel was granted in 9,056 cases. The Migration Agency does not have reliable data on this regarding Dublin cases.¹⁰²

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,

⁹⁴ Standard hourly fee for 2022 according to the Legal Aid Act, <http://bit.ly/3rKNoy5>.

⁹⁵ 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>.

⁹⁶ See previous updates of this country report, available at: <http://bit.ly/3j5sDyg>.

⁹⁷ *Ändrade regler i utlänningslagen, prop. 2020/21:191*, available in Swedish at: <https://bit.ly/3wXzYUK>.

⁹⁸ Swedish National Audit Office, 'Lämpligt biträde med rätt ersättning – hanteringen av offentliga biträden i migrationsärenden (RiR 2022:14)', 2 June 2022, available in Swedish at: <http://bit.ly/3JSRSgP>.

⁹⁹ The Government Offices, Department of Justice, En översyn av vissa frågor om offentliga biträden, Ju 2022:H. Information provided by the Migration Agency's statistics unit.

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

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

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. The EUAA mentions that the Swedish Refugee Law Centre continued to offer remote counselling in 2021 due to COVID-19 restrictions.¹⁰³ However, it was not solely because of the COVID-19 pandemic. Remote counselling was actually maintained as a way for the center to continue to reach a wider group of asylum seekers. With remote counselling, the center could provide legal advice to individuals who may not have been able to access in-person services, either due to geographical barriers or COVID-19 restrictions. By offering remote counselling, the Swedish Refugee Law Centre could continue to help a larger number of asylum seekers understand their rights and the asylum procedure.

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 2022

Outgoing procedure			Incoming procedure		
	Requests	Transfers		Requests	Transfers
Total	1,249	not available	Total	2,425	not available
Take charge	706	not available	Take charge	227	not available
Italy	172	not available	Germany	63	not available
Poland	97	not available	France	46	not available
Spain	71	not available	Greece	36	not available
France	65	not available	Netherlands	15	not available
Germany	57	not available	Unknown	14	not available
Take back	543	not available	Take back	2,198	not available
Germany	161	not available	Germany	840	not available
Italy	52	not available	Belgium	360	not available
Denmark	51	not available	France	341	not available
Austria	44	not available	Italy	136	not available
France	39	not available	Netherlands	136	not available

Source: Information provided by the Migration Agency’s statistics unit. The numbers show the number of transfer decisions. Statistics on transfers actually implemented were not provided.

¹⁰³ EUAA, *Asylum Report 2022: Annual Report on the Situation of Asylum in the European Union*, June 2022, available at: <http://bitly.ws/AUaD>, 198.

Outgoing Dublin requests by criterion: 2022		
Dublin III Regulation criterion	Requests sent	Requests accepted
“Take charge”: Articles 8-15:	943	not available
Article 8 (minors)	4	not available
Article 9 (family members granted protection)	1	not available
Article 10 (family members pending determination)	0	not available
Article 11 (family procedure)	13	not available
Article 12 (visas and residence permits)	771	not available
Article 13 (entry and/or remain)	153	not available
Article 14 (visa free entry)	1	not available
“Take charge”: Article 16	0	not available
“Take charge” humanitarian clause: Article 17(2)	1	not available
“Take back”: Article 18	966	not available
Article 18 (1) (b)	556	not available
Article 18 (1) (c)	11	not available
Article 18 (1) (d)	399	not available
Article 20(5)	1	not available

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

Incoming Dublin requests by criterion: 2022		
Dublin III Regulation criterion	Requests received	Requests accepted
“Take charge”: Articles 8-15	295	185
Article 8 (minors)	85	38
Article 9 (family members granted protection)	16	13
Article 10 (family members pending determination)	6	4
Article 11 (family procedure)	28	5
Article 12 (visas and residence permits)	153	122
Article 13 (entry and/or remain)	7	3
Article 14 (visa free entry)	0	0
“Take charge”: Article 16	1	1
“Take charge” humanitarian clause: Article 17(2)	37	13

“Take back”: Articles 18 and 20(5)	2,782	1,854
Article 18 (1) (b)	2,230	1,395
Article 18 (1) (c)	6	3
Article 18 (1) (d)	543	456
Article 20(5)	3	0

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

2.1.1. Application of the Dublin criteria

In 2022, Sweden issued 2,072 and received 3,747 requests under the Dublin Regulation. Sweden interprets the Dublin Regulation rules rather strictly and respects the hierarchy established by the Regulation. The Swedish Aliens Act refers to the Dublin Regulation rules but not in detail since the Regulation has direct effect in Swedish law.

All asylum seekers are fingerprinted if they are 14 years or older and checked both in the Eurodac and Visa Information System (VIS) databases. The top five countries of origin were Afghanistan, Syria, Iraq, Ukraine and Eritrea.¹⁰⁴ Children aged 6 and above are fingerprinted, but they will not be checked against any databases. If an asylum seeker refuses to be fingerprinted it can be interpreted as refusing to participate in the investigation on whether they have the right to stay in Sweden, which is a basis for detention.¹⁰⁵ The law does not authorise the use of force to take fingerprints.

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).¹⁰⁶ 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).¹⁰⁷ 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 1 request based on the “humanitarian clause” (Article 17(2) Dublin Regulation) in 2022 and based on the “dependent persons’ clause” (Article 16 Dublin Regulation), and received 37 and 1 incoming requests on those grounds respectively.

Statistics regarding article 17(1) are limited as there is no formal decision to refrain from sending a take charge request and to examine the application in Sweden is taken.

¹⁰⁴ Information provided by the Swedish Migration Agency.

¹⁰⁵ Chapter 10 Section 1 Aliens Act.

¹⁰⁶ Government. Regerings proposition 2020/21:5. *Behandling av känsliga personuppgifter i testverksamhet enligt utlänningsdatalagen*, available at: <https://bit.ly/3jYyKR4>.

¹⁰⁷ 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 35 officials in 2022.¹⁰⁸

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.¹⁰⁹

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.¹¹⁰

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 2022 Sweden received 3,747 Dublin incoming requests and issued 2,072 outgoing requests to other Dublin States. A total of 590 Dublin transfers were carried out to another Dublin country in 2022.¹¹¹

¹⁰⁸ Information provided by the Swedish Migration Agency.

¹⁰⁹ Chapter 12 Section 9 a Aliens Act.

¹¹⁰ Information provided by the Migration Agency, August 2017.

¹¹¹ Information provided by the Migration Agency's statistics unit.

The average processing time for all Dublin cases in 2022, i.e. until a transfer decision was issued, was 64 days, up from 46 in 2021, 49 in 2020, and 58 in 2019.¹¹²

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,¹¹³ 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.¹¹⁴ 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.¹¹⁵ In comparison, 62 out of a total of 164 interviews were carried out by video link in 2021.¹¹⁶ In 2022, a total of 99 asylum interviews were carried out in the context of the Dublin procedure, out of which 18 were carried out by video link.¹¹⁷

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. The transcript and other documents regarding an applicant's asylum case can be requested. 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.

¹¹² Migration Agency, *Monthly statistical report for December 2022*, 15.

¹¹³ Migration Court of Appeal, MIG 2007:4, UM 607-06, 22 January 2007, available at: <http://bit.ly/2oZzsl1>.

¹¹⁴ Information provided by the Swedish Migration Agency, March 2020.

¹¹⁵ Information provided by the Swedish Migration Agency, March 2020.

¹¹⁶ Information provided by the Swedish Migration Agency.

¹¹⁷ Information provided by the Swedish Migration Agency, March 2023.

2.4. Appeal

Indicators: Dublin: Appeal

☒ Same as regular procedure

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

❖ If yes, is it

❖ If yes, is it suspensive

☒ Yes

☒ Judicial

☒ Yes

☐ No

☐ Administrative

☐ No

An application will be dismissed as inadmissible when the Dublin Regulation applies.¹¹⁸ 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.¹¹⁹ Moreover, appeals in Dublin cases are often expedited quickly by the Migration Court and the Migration Court of Appeal.¹²⁰ The appeal body does not take into account the recognition rates in the responsible member state when reviewing the Dublin decision.¹²¹

The Migration Court of Appeal made a reference for a preliminary ruling to 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.¹²²

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.¹²³ 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.¹²⁴ The Court found that the decision not to take charge primarily concerns the States involved, not the individual, at least not directly in a way that would entail an assessment of potential violations of their freedoms or rights.

¹¹⁸ Ch. 5, Section 1c Aliens Act.

¹¹⁹ Ch. 12, Section 9 a Aliens Act.

¹²⁰ Observation based on practice by the Swedish Refugee Law Center.

¹²¹ Migration Court of Appeal, Decision MIG 2013:23, 9 December 2013, available at: <http://bit.ly/3XDu0mS>.

¹²² CJEU, *Karim v. Migrationsverket*, Case C-155/15, Judgment of 7 June 2016, available at: <http://bit.ly/2kKfKa9>.

¹²³ Migration Court of Appeal, MIG 2020:4, 26 February 2020, see EDAL summary at: <https://bit.ly/3bN6BZv>.

¹²⁴ 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, available at: <http://bit.ly/3wrBU7a>.

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.¹²⁵

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.

As far as the authors are aware, no persons have been transferred to Hungary since 2018.

In November 2022, the Migration Agency issued a new legal guidance note regarding Dublin transfers to Hungary.¹²⁶ The Migration Agency currently do not consider that such systemic deficiencies in the asylum procedure and reception conditions in Hungary exists that transfers would engage Article 3(2) of the Dublin Regulation. The Migration Agency however consider that there are serious doubts on whether an asylum seeker, after transfer to Hungary, can gain access to the asylum procedure. Therefore, the Migration Agency assesses that no transfers to Hungary can be done until further notice.

¹²⁵ 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.

¹²⁶ SMA, *Överföringar till Ungern i enlighet med Dublinförordningen*, RS/010/2022, 11 November 2022, available in Swedish at: <https://bit.ly/3R6H01V>.

The Migration Agency do continue to make the request and make the transfer decision if Hungary is determined to be the responsible Member State. However, the transfer decisions may not be enforced as long as the conditions in Hungary remains. All transfer decisions to Hungary in accordance with the Dublin regulation are therefore to be suspended until further notice.

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.¹²⁷ 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.¹²⁸ In 2022, 5 take charge decisions and 2 take back decision were issued to Greece.¹²⁹

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 are 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.¹³⁰

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 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”)

3.1. General (scope, criteria, time limits)

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

1. Has obtained international protection in another EU Member State;
2. Comes from a **First Country of Asylum**;
3. Comes from a **Safe Third Country**.

¹²⁷ European Commission, *Commission Recommendation of 8.12.2016 addressed to the Member States on the resumption of transfers to Greece under Regulation (EU) NO. 604/2013*, C(2016) 8525 final, 8 December 2016, available at: <https://bit.ly/3J8EWEP>.

¹²⁸ Information from the Migration Agency, Dublin Unit, July 2019.

¹²⁹ Information provided by the Migration Agency's statistics unit.

¹³⁰ Chapter 10, Section 13 Aliens Act.

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 2022, the Migration Agency received 210 applications that were processed under Track 5B and 6 applications were processed under Track 5C. 260 decisions were taken under Track 5B and 4 decisions taken under track 5C.¹³¹ There is no time limit from the SMA to process these cases.

3.2. Personal interview

Indicators: Admissibility Procedure: Personal Interview

☒ Same as regular procedure

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the admissibility procedure?

<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
---	-----------------------------

 - ❖ If so, are questions limited to nationality, identity, travel route?

<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
------------------------------	--
 - ❖ If so, are interpreters available in practice, for interviews?

<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
---	-----------------------------
2. Are interviews conducted through video conferencing?

<input checked="" type="checkbox"/> Frequently	<input type="checkbox"/> Rarely	<input type="checkbox"/> Never
--	---------------------------------	--------------------------------

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

3.3. Appeal

Indicators: Admissibility Procedure: Appeal

☐ Same as regular procedure

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

<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
---	-----------------------------

 - ❖ If yes, is it

<input checked="" type="checkbox"/> Judicial	<input type="checkbox"/> Administrative
--	---
 - ❖ If yes, is it automatically suspensive

<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Some grounds	<input type="checkbox"/> 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.¹³²

Therefore, the appeal has automatic suspensive effect in cases dismissed on safe third country grounds, but it not 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 suggests that in first country of asylum cases a decision with immediate enforcement should be taken only when it is obvious that the applicant enjoys sufficient protection in the country concerned.¹³³

¹³¹ Information provided by the Migration Agency's statistics unit.

¹³² Ch. 8, Section 19 Aliens Act.

¹³³ 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>, 9.

3.4. Legal assistance

Indicators: Admissibility Procedure: Legal Assistance

☐ Same as regular procedure

1. Do asylum seekers have access to free legal assistance during admissibility procedures 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 an inadmissibility decision in practice?
☐ Yes ☒ With difficulty ☐ No
❖ Does free legal assistance cover:
☐ Representation in courts
☐ Legal advice

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.¹³⁴

4. Border procedure (border and transit zones)

There is no border procedure in Sweden.

5. Accelerated procedure (“Track 4”)

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

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

- ❖ Manifestly unfounded claims (“Track 4A”) and
- ❖ Claims from nationalities with a recognition rate below 15% (“Track 4B”). The countries currently listed are: Albania, Algeria, Armenia, Belarus, Bolivia, Bosnia and Herzegovina, Brazil, Chile, Colombia, Cuba, Djibouti, Georgia, Great Britain, India, Israel, Kosovo, North Macedonia, Mexico, Mozambique, Morocco, Moldova, Mongolia, Montenegro, Peru, Philippines, Serbia, South Africa, Thailand, USA, and Vietnam.¹³⁵

In 2022, 470 cases were decided on after having been processed under Track 4A, manifestly unfounded, and 1 589 cases were decided on after having been processed under Track 4B.¹³⁶ 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.”¹³⁷

¹³⁴ 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>, 11.

¹³⁵ Migration Agency, VÅGLEDNING Lista över länder och lägsta idkategorisering för sortering i spår 4B, Dnr: 1.2.2.2-2022-20585, 7 May 2021, revised 22 September 2022.

¹³⁶ Statistics provided by the Migration Agency's statistical unit.

¹³⁷ Ch. 8, Section 19 Aliens Act. See also Ch. 12, Section 7 Aliens Act.

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.¹³⁸ 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*,¹³⁹ 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 Agency¹⁴⁰ 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 as *Gnandi*.¹⁴¹ 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.

¹³⁸ Migration Court of Appeal, MIG 2006:7, UM 230-06, 31 October 2006; MIG 2010:22, UM 2244-10, 22 December 2010.

¹³⁹ CJEU, *A v. Migrationsverket*, Case C-404/17, Judgment of 25 July 2018, EDAL, available at: <http://bit.ly/2Ubxvn6>.

¹⁴⁰ 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>.

¹⁴¹ CJEU, *Gnandi v Etat belge*, C-181/16, 19 June 2018, EDAL, available at: <https://bit.ly/2ITsDwX>.

5.2. Personal interview

Indicators: Accelerated Procedure: Personal Interview

☐ Same as regular procedure

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

A personal interview is mandatory, as per a guideline decision of the Migration Court of Appeal.¹⁴² 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.

5.3. Appeal

Indicators: Accelerated Procedure: Appeal

☐ Same as regular procedure

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

There is no difference in time limits for lodging appeals under the accelerated procedure compared to the regular procedure (see [Regular Appeal](#)). The same time limit of 3 weeks after the decision is notified applies.¹⁴³

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.¹⁴⁴

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.¹⁴⁵

¹⁴² Migration Court of Appeal, MIG 2007:4, UM 607-06, 22 January 2007.

¹⁴³ Section 44, The Administrative Procedure Act (2017:900).

¹⁴⁴ Ch. 12, Section 8a Aliens Act.

¹⁴⁵ Migration Agency, *Rättsligt ställningstagande angående avvisning med omedelbar verkställighet till hemlandet inklusive säkra ursprungsländer*, RS/071/2021, 25 May 2021, available in Swedish at: <https://bit.ly/3sKhpAZ>

5.4. Legal assistance

Indicators: Accelerated Procedure: Legal Assistance

☐ Same as regular procedure

1. Do asylum seekers have access to free legal assistance at first instance in practice?
☐ Yes ☒ With difficulty ☐ No
❖ Does free legal assistance cover:
☒ Representation in interview
☒ Legal advice
2. Do asylum seekers have access to free legal assistance on appeal against a 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.¹⁴⁶ However, if the court is of the opinion that the case is not manifestly unfounded, then the court orders suspension of the expulsion order and legal counsel will be appointed. Such a case is referred back to the first instance if there is not sufficient information regarding material grounds for a permit to be granted. The difficulties with regard to access to legal assistance in the regular procedure are also applicable here (see [Regular Procedure: Legal Assistance](#)).

D. Guarantees for vulnerable groups

1. Identification

Indicators: Special Procedural Guarantees

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 mutilation¹⁴⁷ (See [Reception Conditions](#)).

¹⁴⁶ Ch. 18, Section 1 Aliens Act. There do not seem to be particular fixed criteria of vulnerability in which legal counsel is "automatically" given, rather it is a case by case assessment: Swedish Refugee Law Center and UNHCR, *Rättssäkerheten och säkra ursprungsländer – En granskning av Migrationsverkets tillämpning av de nya bestämmelserna*, December 2022, available in Swedish at: <https://bit.ly/3j5MBcm>.

¹⁴⁷ Migration Agency, *Rutin: Ta ställning till särskilda behov, initialt and Rutin: Insatser för asylsökande med särskilda behov*.

1.1. Screening of vulnerability

All asylum seekers are offered health screening and a majority of them choose to undergo a health check in practice. This is particularly important in relation to survivors of torture and traumatised persons. However, because of confidentiality rules, this information is not automatically available to caseworkers. The legal counsel can however request access to this information with the permission of the applicant.

The Migration Agency does not yet collect disaggregated statistics on the number of asylum seekers identified as vulnerable, with the exception of unaccompanied minors.¹⁴⁸ 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 2022, 515 cases of suspected human trafficking were identified at the Migration Agency, including 221 women and 294 men. 21 were children, out of which 11 girls and 10 boys. The Migration Agency provided information to the regional coordinators at the Social services in 68 cases and to the Police in 354 cases. The SMA does not always require the consent of the applicant to do so.¹⁴⁹ Moreover in 2022 a total of 85 persons accepted temporary residence permits, out of which 30 women (1 girl) and 55 men (1 boy). The large increase compared to the year 2021 is explained by suspected exploitation for work purposes, including applications for work from abroad. The most common nationalities were Thailand (173), Uganda (75), Kenya (29), Ukraine (45), Vietnam (16), Nigeria (12), Mongolia (12) and Afghanistan (12).¹⁵⁰

1.2. Age assessment of unaccompanied children

The Migration Court of Appeal clarified in a precedent-setting ruling of 2014 that the burden of proof lies with the applicant to establish their stated age as probable, with the aid of supporting documents, where available.¹⁵¹ 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 [previous versions 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.¹⁵² 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.

¹⁴⁸ Information provided by the Migration Agency, January 2018.

¹⁴⁹ Information provided by the Migration Agency, 2023.

¹⁵⁰ Migration Agency, *Annual Report 2022*, Dnr: 1.3.2-2023 – 2262, available at: bit.ly/3JgvP4u.

¹⁵¹ Migration Court of Appeal, MIG 2014:1, UM 2437-13, 11 February 2014, available at: <http://bit.ly/2jQwVWr>.

¹⁵² 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.

An applicant can make their 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.¹⁵³ 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. Documentary evidence can in some cases be considered to have low evidentiary value because the authorities consider them easy to falsify, or because they are based on oral statements. Such has been the case of the *tazkira*. If this evidence is not sufficient and the Migration Agency therefore considers making a decision whereby the applicant is assessed to be an adult, the Agency is obliged to offer the applicant a medical age assessment.¹⁵⁴ Consent of the applicant and their 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 achievable.¹⁵⁵

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.¹⁵⁶

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

¹⁵³ Ch. 13, Section 17, Aliens Act.

¹⁵⁴ Ch. 13, Section 18, Aliens Act.

¹⁵⁵ The Swedish Government, *Uppdrag till Rättsmedicinalverket att genomföra medicinska åldersbedömningar* Dnr Ju2016/03931/Å, available in Swedish at: <https://bit.ly/3tfRou4>.

¹⁵⁶ 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.

In 2022, a total of 61 persons were considered as adults following an age assessment procedure:

Medical age assessments				
	2021		2022	
Forensic opinions on age by the National Board of Forensic Medicine	Male	Female	Male	Female
Total	67	40	100	28
Strongly indicates that the person is 18 or over	8	-	23	-
Indicates that the person is 18 or over	29	18	23	15
Possibly indicates that the person is under 18	22	3	46	0
Possibly indicates that the person is 18 or over	8		8	-
Indicates that the person is under 18		6	-	2
No assessment if person is over or under 18 could be made	-	11	-	11
No assessment was possible	-	2	0	0

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.¹⁵⁷

After several critiques by the Swedish Council on Medical Ethics, the Council of Europe Commissioner for Human rights and NGOs and lawyers, in April 2019 the Social Democrats and the Green Party decided that a commission of inquiry would be set up. The commission of inquiry were to assess the situation through an independent review and should have submitted its final findings by 31 May 2024 at the latest.¹⁵⁸

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*),

¹⁵⁷ Swedish Bar Association, *Promemoria Advokatens uppdrag för svaga och utsatta klienter*, updated January 2020, 35-36, available in Swedish at <https://bit.ly/3if0Bg0>.

¹⁵⁸ 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>.

the Government's ombudsman in the supervision of authorities. Nevertheless, in June 2020, the Chancellor of Justice found that there had been no human rights violation. The Chancellor of Justice referred 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.¹⁵⁹

On 11 June 2021, RMV stated that the authority sees an opportunity to further differentiate the forensic opinion on age. In the future, RMV would 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.¹⁶⁰ 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 2021.¹⁶¹

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. The SMA responded positively to the inquiry, highlighting the importance of such reviews as medical age assessment can be of decisive importance for asylum seekers. While stressing the need for the results of the assessments to be designed in a manner that makes it possible for non-medically trained SMA employees to interpret them, it agreed applicants should receive enough information about the process and decision making so that they can meaningfully present objections and rebuttals.¹⁶²

Responding positively as well, RMV published an updated methodological description on 5 September 2022, containing a more comprehensive account of uncertainties and factors affecting the model. The basis for assessment or the form of statements were not changed.¹⁶³

In December 2022 the new Swedish government decided that the inquiry should be discontinued. The decision to discontinue the inquiry has been criticised by several organisations, including the Swedish Refugee Law Center.¹⁶⁴

¹⁵⁹ Civil Rights Defenders, *Civil Rights Defenders kritisk till JK-beslut om medicinska åldersbedömningar*, available in Swedish at: <http://bit.ly/3cQ2TPu>.

¹⁶⁰ National Board of Forensic Medicine, 21 June 2021. Only available in Swedish at <https://bit.ly/34RYQ5g> /

¹⁶¹ 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/3JriwvW>.

¹⁶² SMA, Remissvar över delbetänkandet Granskning av Rättsmedicinalverkets metod för medicinsk åldersbedömning i asylprocessen (SOU 2021:84), available in Swedish at: <https://bit.ly/42XLeP4>.

¹⁶³ National Board of Forensic Medicine, 'Uppdaterad metodbeskrivning för medicinska åldersbedömningar', 5 September 2022, available in Swedish at: <http://bit.ly/3Jfhw2>.

¹⁶⁴ Swedish Refugee Law Center, *Kommentar till nedlagd utredning om medicinska åldersbedömningar*, 19 January 2023, available in Swedish at: <http://bit.ly/3KevpfB>.

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 children

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.¹⁶⁵

Examples of measures given in the guideline include prolonging the procedure to allow time for the applicant to put forward their 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.¹⁶⁶

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.

Vulnerability questions pertaining to children

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.¹⁶⁷ On 1 January 2020, the UN Convention on the Rights of the Child (CRC) was incorporated into Swedish national law and entered into force.¹⁶⁸ 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.¹⁶⁹

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

¹⁶⁵ Information provided by the Migration Agency, February 2023.

¹⁶⁶ Migration Agency, *Rutin: Ta ställning till särskilda behov, initialt* and *Rutin: Insatser för asylsökande med särskilda behov*.

¹⁶⁷ Swedish Government Official Report, SOU 2016:19 *Barnkonventionen blir svensk lag*. Available in Swedish at <https://bit.ly/3ImKaIZ>., Swedish Government Official Report, SOU 2020:63, *Barnkonventionen och svensk rätt*. Available in Swedish at <https://bit.ly/3Jo3YNn>.

¹⁶⁸ Lag (2018:1197) om Förenta nationernas konvention om barnets rättigheter, available at: <https://bit.ly/34PnldJ>

¹⁶⁹ Government Bill, prop. 2017/18:186 *Inkopporering av FN:s konvention om barnets bästa*, available in Swedish at: <https://bit.ly/3wh7sO3>, 95f.

2020.¹⁷⁰ 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.¹⁷¹ 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 they do not wish to be heard. However, the legal position is only a document guiding the personnel at the Migration Agency, with no particular legal force. 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.

In 2021 UNICEF published a review of court cases from 2020 pertaining to the Convention on the Rights of the Child.¹⁷² It 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.

There has also been positive outcomes from the Migration Court of Appeal in asylum cases where the best interests of the child was explicitly mentioned; regarding a 14-year-old child born and raised in Sweden,¹⁷³ and regarding three-year-old boy with a serious health condition.¹⁷⁴ Both rulings are important as a ruling from the Migration Court of Appeal is indicative and the rulings offer guidance on how to assess the best interest of the child, and on the proportionality test when balancing different interests, such as the best interest of the child vis-à-vis for instance the interest of the state to uphold regulated migration.

Sweden is currently being examined by the UN Committee on the Rights of the Child on how well Sweden lives up to the CRC. The Swedish government submitted its report in autumn 2021. On 1 July 2022, 31 civil society organisations working with children's rights, including the Swedish Refugee Law Center, submitted an alternative report to the Committee as a basis for the review. The report is an appendix to the main report *Hör barnens röst (Hear the Children's Voice)* produced by children themselves, without adult analysis or interpretation.¹⁷⁵ In the report, the children talk about experiences of racism and discrimination, about being children on the move, about violence and about other forms of vulnerability. As an appendix to the children's report, the civil society organisations presented an analysis of the main issues and areas that require improvements in order for Sweden to live up to its obligations under the Convention. Recommendations from the civil society to the Swedish government are also published separately.¹⁷⁶ The Ombudsman for Children also submitted a report to the Committee.¹⁷⁷ Concerns that were raised in both reports concerned, inter alia, that there is not yet a systematic approach to the use of the Convention in the application of law in municipalities, regions and by national authorities. The Government refers to the fact that the Temporary Act expired on 20 July 2021. However, permanent legislative amendments entered into effect instead, largely based on the temporary legislation from 2016.

¹⁷⁰ Migration Agency, Rättsligt ställningstagande, *Prövning av barns bästa*, 009/2020, 24 June 2020, available in Swedish at: <https://bit.ly/3KOIJEP>.

¹⁷¹ Migration Agency; Rättsligt ställningstagande, *Att höra barn*, 010/2020, 24 June 2020, available in Swedish at: <https://bit.ly/3qe4Tbz>.

¹⁷² UNICEF, *Barnkonventionen som lag i praktiken - En granskning av domar från 2020*, 2021, available in Swedish at: <https://bit.ly/3wcj7h6>.

¹⁷³ Migration Court of Appeal, Decision MIG 2020:24, 22 December 2020, available at: <https://bit.ly/3KSnC4m>.

¹⁷⁴ Migration Court of Appeal, Decision MIG 2021:18, 17 December 2021, available at: <https://bit.ly/3tgs4Ei>.

¹⁷⁵ *Hör barnens röst*, Appendix 1: Report from Civil Society Organisations working with Child Rights, 2022, available in English at: <http://bit.ly/3ZeTuYF>.

¹⁷⁶ Recommendations, "Report from Civil Society Organisations working with Child Rights", August 2022, available in English at: <http://bit.ly/41JXZfs>.

¹⁷⁷ Barnombudsmannen, FN:s konvention om barnets rättigheter, Tillägsrapport Sverige, 15 augusti 2022. LOIPR220927, available at: bit.ly/3mrkW6W

The inquiry failed to analyse the consequences from a children's rights perspective. Despite the Committee's recommendations, there is still no legislation regarding child-specific persecution. Several investigations and reports have shown that there are major shortcomings in the child's right to be heard in asylum cases when children seek asylum together with parents or guardians, and having their claims assessed individually.

The Committee will issue its recommendations and comments to Sweden during 2023.

An internal quality review of the processing of accompanied children in the asylum process was presented by the Migration Agency in December 2022.¹⁷⁸ According to the review, findings show that measures taken by the authority regarding children seem to have had an effect in some aspects, but shortcomings were identified. In general, the best interests of the children are taken into account during the processing, the investigations are of a high level, the children are treated well and receive relevant questions about their reasons for asylum. The report however identified shortcomings in documentation and that some cases had not been sufficiently investigated. In the majority of the cases the outcome – i.e. if the child's asylum claim has been approved or rejected – may according to the report be approved. The children's individual reasons and other relevant factors are highlighted in several decisions – but not in all. The review furthermore showed that in a clear majority of the cases, the best interest of the child is not identified and the balance against opposing interests often done in an unclear manner. A majority of the decisions reveal examples of shortcomings in the application of the method – how the examination of the child's best interests should be carried out, justified and clearly form an integral part of the assessment. The shortcomings occur regardless of whether it is an approval or rejection case.

As part of the quality review, a questionnaire was sent to decision makers at asylum units. The findings from the questionnaire are published in a separate report.¹⁷⁹ When respondents are asked what makes it difficult to consider the best interests of the child, lack of resources, unclear legislation and /or conflict with other legal provisions seem to pose the greatest challenges. Lack of resources primarily referred to lack of time. The reasons stated for the lack of time was among other things, connected to priorities, such as production requirements, but also that the time booked for asylum interviews is not adapted to the individual case and that sufficient time is not allocated for interviews with the children in the family.

According to the Migration Agency, the findings of the reports will now be studied by the parts of the authority that are involved in the examination of asylum decisions, after which measures will be taken to remedy the shortcomings.

During the year, a review of asylum cases where the issue of the risk of genital mutilation was assessed showed quality deficiencies in the processing. 42 cases were reviewed, of which all asylum seekers were women/girls, the vast majority of them children. The cases involved applicants from Egypt, Eritrea, Ethiopia, Nigeria, Somalia and Sudan and both approval and rejection decisions were reviewed. Shortcomings were identified, including shortcomings in the investigation of the parents' attitudes towards protecting the child against genital mutilation and the interpretation of country information. Since the review revealed shortcomings, lectures have been conducted within the authority's asylum examination to raise the level of knowledge. A training case has been developed and a processing support has been published.¹⁸⁰

On 18 March 2022 the Migration Agency published a legal comment on the authority's interpretation of the ruling by the CJEU in case C-441/19 regarding Member states' duty to carry out a general and in-depth assessment of the situation of unaccompanied minors, taking due account of the best interests of the child and to ensure that adequate reception facilities are available for the unaccompanied minor in question in the State of return, before issuing a return decision. Despite criticism from lawyers and civil society, the Migration Agency assessed that the proceedings in Sweden are in compliance with the ruling.¹⁸¹

¹⁷⁸ Migration Agency, *Tematisk kvalitetsuppföljning avseende asylsökande barn i familj*, dnr: 1.3.4-2022-26331, 19 December 2022, available at: <http://bit.ly/3kHUZjf>.

¹⁷⁹ Inquiry, available at: <http://bit.ly/3ZjrLpl>.

¹⁸⁰ Migration Agency, Annual Report 2022, Dnr: 1.3.2-2023-2262, available in Swedish at: <http://bitly.ws/AUE8>.

¹⁸¹ Migration Agency, *Rättslig kommentar, Tolkning av EU-domstolens dom C-441/19*, RK/002/2022, available in Swedish at: <https://bit.ly/3ZCams2>.

Vulnerability questions pertaining to women

As mentioned in the previous AIDA report, an issue that was raised in 2019 by the University of Uppsala with the assistance of 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 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.¹⁸²

On 6 December 2022, the Swedish Migration Agency in an updated legal position regarding applicants from Afghanistan¹⁸³ stated that the situation of women in Afghanistan is considered to be such that their fundamental human rights are violated, and that this is done, inter alia, through legal, administrative, policy and/or judicial measures that are in themselves discriminatory or implemented in a discriminatory manner, cf. Article 9(2)(b) of the Qualification Directive. The Migration Agency considers that it is likely that women and girls in Afghanistan in general, including women and girls in families with a male family member, through the accumulation of various measures, risk being subjected to discrimination at such a level and with such severe restrictions on their fundamental rights and freedoms that, in a forward-looking assessment, this will reach persecution, cf. Article 9(1)(b) of the Qualification Directive. This means that an asylum-seeking woman or girl from Afghanistan must be assessed to be a refugee as belonging to a particular social group, i.e. gender, according to Chapter 4. Section 1 of the Aliens Act.

If a woman or a girl has received an expulsion decision, the situation in Afghanistan mentioned above is to be considered a new circumstance according to the rules regarding impediments to enforced return. If it is not deemed possible to grant a residence permit in accordance with Chapter 12. Section 18 of the Aliens Act, the case shall be re-examined in accordance with Chapter 12. Section 19 of the Aliens Act since it can be assumed that the Taliban regime's approach to women and girls and the generally worsening situation constitute such permanent obstacles to enforcement as referred to in Chapter 12, Sections 1-3 of the Aliens Act.

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. The findings were presented in last year's AIDA report.¹⁸⁴ One of the comments from GREVIO referred to the possibility of a person, having been granted a temporary residence permit as a spouse or partner, being granted an autonomous residence permit. The restrictions introduced by the Temporary Act ceased to exist when the new legislation entered into force in July 2021. A continued and autonomous residence permit may be granted where the relationship has ended following violence on the alien or the alien's child or another serious violation of their liberty or peace (Chapter 5 Section 16). Previously, a permanent residence permit could be granted in such a situation, but following the changes in Swedish migration legislation, residence permits are now as a main rule temporary. However, there are some limitations on the definition. 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.

¹⁸² Emma Asplund and Sophie Sjöqvist (2019). *Manligt nätverk*, available in Swedish at: <https://bit.ly/3sYZ2WO>.

¹⁸³ SMA, Legal position RS/089/2021, *Prövning av skyddsbehov m.m. för medborgare från Afghanistan*, last updated 24 January 2023, available in Swedish at: <http://bit.ly/3zaBcw6>.

¹⁸⁴ For further information see AIDA, *Country Report Sweden, 2021 Update*, May 2022, available at: <https://bit.ly/3R31wRd>, 55ff.

Regarding asylum seeking women GREVIO noted limitations regarding gender-specific interviews with case managers, i.e. the difficulty to build trust and be able to tell traumatic experiences. Additionally, GREVIO noted that women are unaware of the importance and relevance that their accounts of gender-based violence and persecution may have on the asylum procedure.¹⁸⁵

Sweden received a total of 41 recommendations from GREVIO and reported back to the Council on Europe on their implementation on 27 January 2022.¹⁸⁶ 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.

In 2021 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.¹⁸⁷ The CEDAW network sent a joint submission to the UN Committee.¹⁸⁸ 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 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.¹⁸⁹ 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.

The Migration Agency can offer an asylum seeker who has been subjected to or threatened with violence accommodation in another location, and also mark the address as confidential. However, the Migration

¹⁸⁵ GREVIO, *Baseline Evaluation Report: Sweden*, 21 January 2019, available at: <https://bit.ly/3riG6lu>; 59-61.

¹⁸⁶ The Swedish Government's report on the implementation of the recommendations; available in English at <http://bit.ly/3K4uv3V>.

¹⁸⁷ CEDAW network, *Kvinnor i Sverige 2021. En granskning av hur Sverige lever upp till kvinnokonventionen*, available at: <https://bit.ly/3q9E8oD>.

¹⁸⁸ CEDAW network; *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>.

¹⁸⁹ CEDAW, *Concluding observations on the tenth period report of Sweden*, CEDAW/C/SWE/CO/10, 24 November 2021, available at: <https://bit.ly/400WKrm>.

Agency cannot offer sheltered housing. This must according to the Migration Agency be offered under municipal auspices.¹⁹⁰ (see also [Reception of women](#)).

A government inquiry from 2017 highlighted that there are ambiguities regarding which principal is responsible for ensuring that asylum seekers have access to sheltered housing, the Migration Agency or the Social services.¹⁹¹ The Istanbul Convention states that the provisions of the Convention (e.g. access to sheltered accommodation) apply regardless of the victim's status as a migrant, refugee or other status. In light of the above, the inquiry suggested that the Social Welfare Board's responsibility for protected housing for asylum seekers and others needs to be clarified through legislative changes.

A law proposal is to be presented with the aim of introducing sheltered housing as a new form of placement in the Social Services Act (2001:453). However, although included in the initial proposal prepared by the inquiry, in the current remit to the Council on Legislation asylum seeking women are excluded. The City Missions in their referral highlighted that current regulations and practice whereby women at risk of violence are denied sheltered housing depending on their migration status is in violation of article 4 of the Istanbul Convention.¹⁹²

A large part of the Migration Agency's work against human trafficking and exploitation during the year focused on the situation in Ukraine. The information sheet in Ukrainian, Russian and English produced by the Swedish Gender Equality Agency was distributed and displayed at the Migration Agency's application units, accommodation and service centers. In addition to the methodological support and routines that already exist, the Migration Agency's staff were also able to take part in the Swedish Gender Equality Agency's support for professionals, and have been urged to pay extra attention to indications of trafficking and exploitation in the handling of cases and meetings with applicants. During the autumn of 2022, a major training effort was initiated for all administrative staff at all of the authority's detention centres. The training aimed to increase the ability to identify suspected victims and safeguard their rights, regardless of whether the Migration Agency or the Police Authority has made the decision on detention. In addition, new procedures, a screening list and a protocol to be used in cases of suspicion of human trafficking have been developed.¹⁹³

In 2022, a total of 5,142 women applied for asylum and the recognition rate for women was 43% (compared to 5,159 women and 34% recognition rate in 2020, and 4,243 women and 38% recognition rate in 2021).¹⁹⁴

Vulnerability questions pertaining to LGBTQI+ asylum seekers

In November 2020, RFSL published a report¹⁹⁵ 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. Asylum seekers are expected to have gone through an inner process leading up to their realisation about their sexual orientation, gender identity or gender expression. They are expected to have felt, or at least reflected upon, feelings such as a sense of being different, stigma and shame. The

¹⁹⁰ Migration Agency, *Rutin: Skyddat boende/ skyddad adress/ sekretessmarkering för asylsökande utsatta för våld eller hot om våld; Rättsutredning angående Migrationsverkets ansvar för frågor rörande så kallat skyddat boende*, dnr 1.3.4 -2018-38994.

¹⁹¹ Swedish Government Official Report, SOU 2017:112, *Betänkande av Utredningen om ett stärkt barnrättsperspektiv för barn i skyddat boende*, 2017, available at: <https://bit.ly/3ZEYlg4>.

¹⁹² Riksföreningen Sveriges Stadsmissioner, *Yttrande över lagrådsremiss "Ett fönster av möjligheter – stärkta rättigheter för barn och vuxna i skyddat boende"*, available at: <https://bit.ly/3F1o2Fk>.

¹⁹³ Migration Agency, Annual Report 2022, Dnr: 1.3.2-2023-2262, available in Swedish at: <http://bitly.ws/AUE8>.

¹⁹⁴ Migration Agency, Annual Report 2022, Dnr: 1.3.2-2023-2262, available in Swedish at: <http://bitly.ws/AUE8>, 38.

¹⁹⁵ RFSL, *Avslagsmotiveringar i HBTQI-asylärenden*, available in Swedish, with a summary in English, here: <https://bit.ly/3fCSklM>.

requirements are based on the erroneous and stereotypical notion that LGBTQI+ people share certain universally common experiences that can be investigated and assessed. LGBTQI+ people eligible for protection who don't share or can describe these experiences are deemed non-credible. The report also found that late disclosure of LGBTQI+ asylum claims are often deemed non-credible and non-reliable. 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. RFSL is currently working on a follow-up report, yet to be published. The Swedish Migration Agency had a dialogue with RFSL and RFSL Youth during the year 2022. Due to the criticism in RFSL's report the Migration Agency continued the work on skills development, including through training modules from the EUAA and internal courses on norm-conscious approach and equal treatment. Within the administrative support for decision writing, a new section was published on writing more understandable decisions in LGBTQI+ cases with a focus on factual and objective justifications.¹⁹⁶

New caselaw relating to procedural guarantees

The Migration Court of Appeal ruled in May 2022 in case MIG 2022:4,¹⁹⁷ that the Migration Court's investigative responsibility becomes relevant when it is clear that the appellant has communication difficulties and that these may have affected both the appellant's ability to explain his reasons for asylum and the assessment of the appellant's credibility. The appellant in the case was deaf and his sign language was very limited.

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.¹⁹⁸

Unaccompanied children and other vulnerable groups are not *per se* exempted from the accelerated procedure, although individual assessments of the appropriate track to be applied may be made continuously. "Track 4" may be applied to an unaccompanied child who has an unfounded claim and who can be accommodated in reception facilities in the country of origin.

3. Use of medical reports

Indicators: Use of medical reports

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

Medical reports within the context of the asylum claim

The Aliens Act does not contain any guidelines for medical examinations. 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. However, as a result of the *R.C. v. Sweden* ruling of the

¹⁹⁶ Migration Agency, Annual Report 2022, Dnr: 1.3.2-2023-2262, available in Swedish at: <http://bitly.ws/AUE8>.

¹⁹⁷ Migration Court of Appeal, Decision MIG 2022:4, 31 May 2022, available in Swedish at: <https://bit.ly/3zsrkON>.

¹⁹⁸ *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>.

European Court of Human Rights (ECtHR), Sweden has been reminded of the obligation on its authorities to carry out a medical examination if there is an indication on an initial non-expert medical report that the applicant could have been a victim of torture.¹⁹⁹ Following the ruling by the ECtHR, the Migration Court of Appeal has in several rulings specified the investigative duty of the migration authorities and confirmed the principles of *R.C. v. Sweden*.²⁰⁰

The Migration Agency issued a legal position as guidance for case workers. The legal position clarifies 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 they have been subjected to such treatment shall, subject to certain exceptions, be further examined at the state's cost.²⁰¹ Exceptions may be made in cases where:

- ❖ Injuries are not disputed;
- ❖ The Migration Agency intends to grant the applicant refugee status or alternative protection status;
- ❖ The applicant's narrative contains extensive credibility issues; and
- ❖ 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.

The Migration Agency has a standard form for medical reports,²⁰² but not specifically for medico-legal certificates. The latter usually follows the Istanbul Protocol. 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. 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 position²⁰³. 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,²⁰⁴ reiterating their concerns from 2014.²⁰⁵ During 2021, the Swedish Red Cross initiated work to support the Migration Agency with training on the effects of torture and trauma.

¹⁹⁹ ECtHR, *R.C. v. Sweden*, Application No 41827/07, 9 June 2010, available at: <http://bit.ly/3nt3ks5>.

²⁰⁰ Migration Court of Appeal, MIG 2014:21, UM3739-14, 23 September 2014, available in Swedish at: <http://bit.ly/2jPcQ5f>. Migration Court of Appeal, MIG 2012:2, 20 January 2012, available in Swedish at: <http://bit.ly/3TNPcFA>.

²⁰¹ Migration Agency, *Rättsligt ställningstagande, Medicinska utredningar av åberopade skador* – RS/022/2021, available in Swedish at: <https://bit.ly/3fydJMX>.

²⁰² Migration Agency, *Utlåtande från läkare vid provning av hälsotillstånd i ärenden om uppehållstillstånd eller verkställighetshinder*, available in Swedish at: <https://bit.ly/2GCAwFm>.

²⁰³ Migration Agency, *Rättsligt ställningstagande, Medicinska utredningar av åberopade skador* – RS/022/2021, available in Swedish at: <https://bit.ly/3fydJMX>.

²⁰⁴ 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>.

²⁰⁵ In a report from 2014 the Swedish Red Cross highlighted the lack of access to proper investigation in situations where an asylum seeker claims they have been subject to torture: Swedish Red Cross, *Tortyrskador i asylprocessen under lupp. Hur värderas tortyrskador i den svenska asylprocessen*, 2014, available in Swedish at: <https://bit.ly/3tZM9gd>.

In December 2021, guidance for healthcare professionals meeting patients with torture experiences was published by regional health care training centres.²⁰⁶

Medical reports in the context of expulsion

As a consequence of the ECtHR ruling in *Paposhvili v Belgium*,²⁰⁷ the Migration Agency 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.²⁰⁸

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.²⁰⁹ 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.

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.²¹⁰ 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 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.

²⁰⁶ 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/3kGfhsO>

²⁰⁷ ECtHR, *Paposhvili v. Belgium*, Application No 41738/10, Judgment of 13 December 2016, EDAL, available at: <https://bit.ly/2UR2eXM>.

²⁰⁸ 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>

²⁰⁹ UN Committee on the Rights of Persons with Disabilities, *Decision on Communication no. 60/2019*, September 2020, available at: <https://bit.ly/3uPW3BM>, 24.

²¹⁰ UN Committee on the Rights of Persons with Disabilities, *Decision on Communication no. 58/2019*, September 2021, available at <https://bit.ly/3wfOKGG>

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.²¹¹

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.²¹²

No differences are made between Dublin cases, manifestly unfounded cases or regular procedure cases regarding the right to a guardian. Every unaccompanied child is assigned a guardian but, should an age assessment lead to the person being considered an adult, the assignment ceases despite the fact that the age assessment decision can be appealed and has therefore not gained legal force. In certain cases, courts have pointed out that this practice is not in line with legal principles. The Administrative Court of Gothenburg handed down a decision recognising that a child who had had his age adjusted to over 18 was still in the appeal procedure and that the decision on his age had not gained legal force. Therefore he should still have the right to a guardian during that period.²¹³

630 unaccompanied minors sought asylum in 2022.²¹⁴

Country of origin	Number of applicants
Syria	154
Afghanistan	177
Somalia	50
Morocco	44

²¹¹ Lag (2005:429) om god man för ensamkommande barn, available in Swedish at: <http://bit.ly/2CP4Pnq>.

²¹² Swedish Government Official Report (2021) SOU 2021:36, *Ställföreträdarutredningen, Gode män och förvaltare – en översyn*, available in Swedish at: <https://bit.ly/3wsgkzd>

²¹³ Administrative Court of Gothenburg, Decision 4737-15, 28 June 2016.

²¹⁴ Migration Agency, Annual Report 2022, Dnr: 1.3.2-2023-2262, available in Swedish at: <http://bitly.ws/AUE8>.

Eritrea	28
Other	177
Total	630

Source: Swedish Migration Agency, *Inkomna ansökningar om asyl*, 2022, available in Swedish at: <https://bit.ly/3ybnKrB>

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 ☐ No
 - ❖ 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 ☐ No
 - ❖ 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,²¹⁵ or, if such a permit cannot be granted, lead to a re-examination of the initial case.²¹⁶

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];²¹⁷
- (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, but this is a discretionary power.²¹⁸ 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];²¹⁹ 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”.

²¹⁵ Ch. 12, Section 18 Aliens Act.

²¹⁶ Ch. 12, Section 19 Aliens Act.

²¹⁷ Ch. 12, Sections 1-2 Aliens Act.

²¹⁸ Ch. 12, Section 18 - 18a Aliens Act.

²¹⁹ Ch. 12, Sections 1-2 Aliens Act.

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. 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 2019.²²⁰ 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. There is no limitation in the number of subsequent applications that can be submitted, insofar as new grounds for protection are presented. However, the Migration Agency has no discretion to re-examine the application where these conditions are not met.²²¹ Section 19 therefore concerns new grounds for international protection and not humanitarian grounds or practical problems in enforcing expulsion.

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

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 2022, a total of 9,307 subsequent applications were submitted and the Migration Agency decided on 10,409 subsequent applications. Out of them, 735 subsequent applications resulted in a residence permit

²²⁰ Migration Court of Appeal, UM 12194-18, MIG 2019:5, 10 April 2019, available in Swedish at: <https://bit.ly/3rWG1DG>.

²²¹ Ch. 12, Section 19 Aliens Act.

being granted, and 1,172 subsequent applications were admitted for re-examination. The main countries of origin of applicants lodging a subsequent application were **Afghanistan** (1,706); **Iraq** (920); **Iran** (527); **Ukraine** (387) and stateless (368).²²²

A ‘moratorium’ between 23 July and 29 November 2021 on the processing of asylum applications and return decisions concerning Afghans left many Afghans in legal limbo after the Taliban takeover in August 2021. The Swedish Migration Agency argued that the lack of country-of-origin information made it impossible to accurately determine the protection needs of individuals from Afghanistan and to take return decisions. After the Taliban takeover in August 2021, many Afghans submitted new asylum claims based on the changed security situation in Afghanistan. However, due to the moratorium, none of them were admitted back into the asylum procedure, which made them ineligible to receive support from the reception system, such as housing and welfare.²²³ On 30 November 2021 the Migration Agency published a legal instruction on Afghanistan due to the Taliban takeover. The Agency considered²²⁴ 575 subsequent applications from Afghan nationals.²²⁵ Most decisions on subsequent applications submitted by Afghan nationals after the legal instruction dated 30 November 2021 were admitted for re-examination.²²⁶ (for further information about Afghan applicants, see [Differential Treatment of Specific Nationalities in the Procedures](#)).

F. The safe country concepts

Indicators: Safe Country Concepts

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

1. Safe country of origin

In May 2021, Sweden implemented the APD’s provision regarding safe countries of origin in its national legislation.²²⁷ The legislation process was initiated after the CJEU judgement *A v Migrationsverket* where the court 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.

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:²²⁸

²²² Information provided by the Migration Agency’s statistics unit.

²²³ Fundamental Rights Agency, *Migration: Key fundamental rights concerns - October 2021- December 2021*, available at: <https://bit.ly/40F4kaD>, 17.

²²⁴ Migration Agency, *Rättsligt ställningstagande. Prövning av skyddsbehov för medborgare från Afghanistan - RS/089/2021*, 30 November 2021, available in Swedish at: <https://bit.ly/3XArWfn>.

²²⁵ Information provided by the Migration Agency’s statistics unit.

²²⁶ SMA, Legal position RS/089/2021, *Prövning av skyddsbehov m.m. för medborgare från Afghanistan*, last updated 24 January 2023, available in Swedish at: <http://bit.ly/3zaBcw6>, 6.

²²⁷ For further information see AIDA, *Country Report Sweden, 2021 Update*, May 2022, available at: <https://bit.ly/3R31wRd>, 64.

²²⁸ Swedish Migration Agency, *Migrationsverkets föreskrifter om förteckning över säkra ursprungsländer*, MIGRFS 2021:4, available in Swedish at: <http://bit.ly/3R54OmQ>

- ❖ Albania
- ❖ Bosnia and Herzegovina
- ❖ Chile
- ❖ Georgia
- ❖ Kosovo
- ❖ Mongolia
- ❖ 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.²²⁹ 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.

In 2022 the government in Sweden changed following the general elections. Before being able to form a government the now governing parties issued an agreement, "Tidöavtalet", with a non-governing party, the Sweden Democrats, to secure their votes for Parliament. The agreement states that a review will be made of the existing regulations on safe countries of origin to allow for adding to the list countries where parts of the country can be considered safe. They also consider shifting responsibility for the list of safe countries from the Swedish Migration Agency to the Government Offices.²³⁰

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.²³¹

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

²²⁹ Swedish Migration Agency. *Rättsligt ställningstagande RS/071/2021. Avvisning med omedelbar verkställighet till hemlandet inklusive säkra ursprungsländer*, available in Swedish at: <https://bit.ly/33UJbky>.

²³⁰ Swedish Refugee Law Center. *Asylrättscentrums analys av Tidöavtalet*, available in Swedish at: <http://bit.ly/3LWh7Bi>.

²³¹ See for example Migration Court Of Appeal, Decision MIG 2006:7, 30 October 2006, available in Swedish at: <http://bit.ly/3XC9cMJ>; MIG 2010:22, 22 December 2010, available in Swedish at: <http://bit.ly/3XE1HES>; MIG 2014:22, available in Swedish at: <http://bit.ly/3wuz5IG>

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.²³² 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 UNHCR,²³³ 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: 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 appreciate 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.²³⁴

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 they:

- ❖ 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 they do 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

²³² 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>, 12-13.

²³³ Swedish Refugee Law Center. *Rättsäkerheten och säkra ursprungsländer*, available in Swedish with an English summary at: <https://bit.ly/33Ugch5>

²³⁴ Swedish Migration Agency, Statistics, 18 January 2023, available at: <http://bit.ly/3XDtm8U>; Swedish Refugee Law Center, *Rättsäkerheten och säkra ursprungsländer*, available in Swedish with an English summary at: <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.²³⁵

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:²³⁶

- (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](#)).²³⁷ A country can be considered to be a first country of asylum for a particular applicant for asylum if:

- (a) They have been recognised in that country as a refugee and they can still avail him or herself of that protection; or
- (b) They otherwise enjoy sufficient protection in that country, including benefiting from the principle of *non-refoulement*;

provided that they 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.²³⁸

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 Swedish Migration Agency shall provide a one-day mandatory introduction training on the Swedish society to all asylum-seekers that are 15 years or older. The training shall include information

²³⁵ 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.

²³⁶ 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>.

²³⁷ Ch. 5, Section 1b(2) Aliens Act.

²³⁸ 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>, 8ff.

on the asylum process, Swedish legislation, the rights of the child, democracy, gender equality and honour-related violence. Children under 15 years shall be given the same information in writing.²³⁹ The 1994 Ordinance on the Reception of Asylum Seekers states that the Migration Agency must inform the applicants of organisations that provide services to asylum seekers.²⁴⁰ 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,²⁴¹ 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, English, or Arabic.

The Agency has also produced material for children both unaccompanied and in families, explaining to them the asylum procedure in seven different languages.²⁴² 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.²⁴³ 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, Türkiye, Ethiopia, Morocco, Azerbaijan and Iran).²⁴⁴

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,²⁴⁵ as well as on Dublin procedures followed after a country other than Sweden has been deemed responsible.²⁴⁶ There is also a specific leaflet for unaccompanied minors regarding the Dublin Regulation, as per Article 4(3) of the Dublin III Regulation.²⁴⁷

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.

²³⁹ Regleringsbrev 2021 Migrationsverket.

²⁴⁰ Section 2a Ordinance on the reception of asylum seekers.

²⁴¹ Migration Agency, *Protection and Asylum in Sweden*, available at: <http://bit.ly/1sHzLfA>.

²⁴² Migration Agency, *For Children*, available at: <http://bit.ly/1Feg3vm>.

²⁴³ Migration Agency, *Alla filmer på alla språk*, available at: <https://bit.ly/2W4Axay>.

²⁴⁴ Migration Agency, *Other languages*, available at: <https://bit.ly/2vkhMnH>.

²⁴⁵ Migration Agency, *"I have asked for asylum in the EU – which country will handle my claim?"*, available at: <http://bit.ly/1PSuhgz>.

²⁴⁶ Migration Agency, *"I am in the Dublin procedure – what does this mean?"*, available at: <http://bit.ly/1LRjmgH>.

²⁴⁷ Migration Agency, *Children asking for international protection - Information for unaccompanied children who are applying for international protection pursuant to article 4 of Regulation (EU) No 604/2013*, available at: <https://bit.ly/3cIm8eS>. See also information on the Dublin procedure on the website of the Swedish Refugee Law Centre for adults here: <https://bit.ly/3wS9y4Y>; and for children here: <https://bit.ly/2QnNGNL>. Both websites are available in many languages.

In December 2021 Swedish Public Radio reported that due to a significant increase in the number of questions received by e-mail there had been a long waiting period for a reply from the Migration Agency.²⁴⁸ In 2022 it has not been reported that this particular problem has continued.

Information is also provided by NGOs, notably by the Swedish Network of Refugee Support groups (FARR), which published on its website an 152-page booklet entitled *Goda Råd* (Good Advice), updated in May 2022, available in several languages.²⁴⁹ 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 Law Center ([sweref.org](https://www.sweref.org)) and the Swedish Section of Amnesty International ([amnesty.se](https://www.amnesty.se)) 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 Migration²⁵⁰ 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.

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](https://www.sveredcross.se) offers information and legal advice support on asylum and family reunification cases through a free-of-charge number (+46 20 415 000), email, online form or during personal meetings. Swedish Red Cross lawyers, based in Stockholm, Malmö and Gothenburg, can act as legal counsel, mostly in cases within Red Cross prioritised areas such as family reunification and protection needs due to the risk of torture or other forms of ill-treatment.

The [Swedish Refugee Law Center](https://www.sweref.org) 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. Other NGOs offering advice and support to asylum-seekers include [Amnesty International](https://www.amnesty.se) and [Caritas Sweden](https://www.caritas.se).

Some refugee groups 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 an association which provide advice and support to newly arrived unaccompanied children.²⁵¹

²⁴⁸ On 4 December 2021 Swedish Public Radio reported that at that time the Migration Agency had more than 20 000 unanswered e-mails. <https://bit.ly/3F43SaP>

²⁴⁹ FARR, *Good Advice for Asylum Seekers in Sweden*, May 2022, available in English at: <https://bit.ly/3rH04FN>. Other languages available at: <https://bit.ly/3mmMBSF>.

²⁵⁰ Svenska kyrkan, 'Migration', available at: <https://bit.ly/3RcSAC4>

²⁵¹ Ensamkommandes Förbund webpage, available at: <https://bit.ly/3Dekajm>

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: The SMA does not have a specific list of such nationalities,²⁵² see more information in "Track 1".
2. Are applications from specific nationalities considered manifestly unfounded?²⁵³ ☒ Yes ☐ No
 - ❖ If yes, specify which: Albania, Bosnia and Herzegovina, Chile, Georgia, Kosovo, Mongolia, North Macedonia, Serbia

In 2022 the number of first-time asylum applications was 16,734, an increase from 11,412 in 2021 and 12,991 in 2020. In 2022, out of the total number of applicants, 2,009 came from Afghanistan, 1,976 from Ukraine, 1,379 from Syria, 1,266 from Iraq, and 746 from Russia.²⁵⁴

At first instance, the recognition rates in cases decided on the merits was 37% in 2022, compared to 32% in 2021, and 25% in 2020 : The recognition rates for major countries of origin were as follows: 60% (887) for Afghans, down from 62% in 2021, 90% (949) for Syrians, up from 85% in 2021, 85%(247) for Eritreans, up from 82% in 2021, 61% (306) for Turkish, down from 63% in 2021, 54% (119) for Stateless persons, down from 57% in 2021. As regards second instance, the Migration Court approved 6% of appeals, in comparison to 7% in 2021.²⁵⁵

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 2022, the Migration Agency continued to consider that the security situation in the internal armed conflict was not such that each and every one is in need of international protection in several provinces in accordance with Article 15(c) of the Qualifications Directive, and that an individual assessment of the applicant's risk therefore must be made. However, it also considered that the improved security situation was not such that it can be considered as significant and non-temporary in nature in the context of cessation.²⁵⁶ In 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.²⁵⁷ The Migration Agency maintained this position in 2022.

In July 2021, the Swedish Migration Agency decided to halt all enforcement of deportations to Afghanistan and 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. In 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.²⁵⁸ Throughout 2022, the Migration Agency and the Migration

²⁵² Information provided in email from the SMA's Digitalisation and Development unit in March 2023.

²⁵³ Whether under the "safe country of origin" concept or otherwise.

²⁵⁴ Migration Agency, Monthly statistical report, December 2022

²⁵⁵ Migration Agency, Monthly statistical report, December 2022

²⁵⁶ Migration Agency, *Rättsligt ställningstagande – Prövningen av skyddsbehov för personer från Syrien*, RS/022/2020, available in Swedish at: <https://bit.ly/3LYyC46>.

²⁵⁷ Migration Agency, *Rättsligt ställningstagande. Prövningen av skyddsbehov för personer från Syrien*, RS/022/2020 (version 3.0), available in Swedish at: <https://bit.ly/3LYyC46>.

²⁵⁸ Migration Agency, 'Information regarding the situation in Afghanistan', available at <https://bit.ly/3eYg9mn>.

Courts have taken decisions and ruled on asylum cases. The Swedish Refugee Law Center compiled a report, analysing a number of Migration Agency asylum decisions for Afghans.²⁵⁹ On 6 December 2022 the Migration Agency published an updated legal position on protection assessment regarding Afghanistan. According to this new position, women and girls shall be granted refugee status due to the overall discriminatory human rights violations in Afghanistan.²⁶⁰

Applicants from countries with a recognition rate below 15% are presumed to have their cases treated under the accelerated procedure ("Track 4B") even if cases are individually assessed before being placed in this procedure. The countries currently listed are: Albania, Algeria, Armenia, Belarus, Bolivia, Bosnia and Herzegovina, Brazil, Chile, Colombia, Cuba, Djibouti, Georgia, Great Britain, India, Israel, Kosovo, North Macedonia, Mexico, Mozambique, Morocco, Moldova, Mongolia, Montenegro, Peru, Philippines, Serbia, South Africa, Thailand, USA, and Vietnam²⁶¹ (see section on [Accelerated Procedure](#)).

²⁵⁹ Swedish Refugee Law Center, *Flyktingskapsbedömningar i första instans – ett år efter talibanernas maktövertagande i Afghanistan*, December 2022, available in Swedish at: <https://bit.ly/3Jnbf2G>

²⁶⁰ SMA, Legal position RS/089/2021, *Prövning av skyddsbehov m.m. för medborgare från Afghanistan* (version 3.0) available in Swedish at: <http://bit.ly/3zaBcw6>.

²⁶¹ Migration Agency, VÄGLEDNING Lista över länder och lägsta idkategorisering för sortering i spår 4B Dnr: 1.2.2.2-2022-20585, 7 May 2021, revised 22 September 2022.

Reception Conditions

Short overview of the reception system

In Sweden, the Swedish Migration Agency is responsible for the reception of asylum seekers. It provides temporary accommodation while awaiting the decision on the application for international protection. The SMA will cover the costs of accommodation if the applicant does not have enough resources. The applicant is in most cases free to choose and arrange its own accommodation if they do 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 until 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, they will be deregistered from the reception system and will no longer be entitled to financial support nor accommodations. This also applies to 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 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.²⁶²

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.²⁶³

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.²⁶⁴ While currently not a particular problem for Afghans since their cases are now tried, the underlying problems to the system has not yet been resolved despite the criticism. There is however a commission of inquiry set up by the Government that partly focuses on this issue.²⁶⁵

²⁶² Migration Agency, 'Bosättning i en kommun', available in Swedish at: <http://bit.ly/3RdthXd>.

²⁶³ See Migration Agency, 'Accommodation with the Migration Agency', available at: <http://bit.ly/3XJajuc>; See also: Migration Agency, 'Accommodation', available at: <https://bit.ly/3asgrQ2>.

²⁶⁴ See for example Swedish Refugee Law Center, *Ge afghaner tillfälligt uppehållstillstånd*, 9 September 2021, available at: <https://bit.ly/3wnkJnP>.

²⁶⁵ Government, *Ett ordnat initialt mottagande av asylsökande*, dir. 2021:71, 16 September 2021, available in Swedish at: <http://bit.ly/421A0h7>.

A. Access and forms of reception conditions

1. Criteria and restrictions to access reception conditions

Indicators: Criteria and Restrictions to Reception Conditions

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

❖ Regular procedure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Dublin procedure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Admissibility procedure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Border procedure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Accelerated procedure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ First appeal	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Onward appeal	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Subsequent application	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No

2. Is there a requirement in the law that only asylum seekers who lack resources are entitled to material reception conditions?

	<input checked="" type="checkbox"/> Yes		<input type="checkbox"/> No
--	---	--	-----------------------------

In Sweden, all asylum applicants have access to the benefits of the reception system, allowing them 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.²⁶⁶

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.²⁶⁷

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.²⁶⁸ 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.²⁶⁹

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. However, they always have the right to emergency health care (health care that cannot be deferred, maternal healthcare,

²⁶⁶ Section 17, Law on Reception of Asylum Seekers and Others, 1994:137.

²⁶⁷ Section 15, Law on Reception of Asylum Seekers and Others, 1994:137.

²⁶⁸ Sections 11-12a, Law on Reception of Asylum Seekers and Others, 1994:137.

²⁶⁹ Sections 11, Law on Reception of Asylum Seekers and Others, 1994:137.

healthcare related to abortion and health care in relation to contraception).²⁷⁰ If subsequent applicants are comprised of a family with children, they are entitled to a reduced allowance as adults but standard allowance for children and have a right to accommodation. These restrictive changes have led to criticism from civil society, as organisations such as the Red Cross have pointed out that the reform has led more people to turn to civil society organisations to ask for assistance with accommodation, food and health care.²⁷¹

Another situation where a person in need of protection may be exempted from the benefits of the reception system is where the applicant already has a residence permit in Sweden but wants to be granted protection status. The Supreme Administrative Court has found that in such situations the persons do not fall within the scope of LMA and thus cannot claim assistance for accommodation and allowances for asylum applicants.²⁷²

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.²⁷³ 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”.²⁷⁴ The legislation covers 32 municipalities.²⁷⁵

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”.²⁷⁶ According to the Swedish Migration Agency 3,067 asylum seekers settled in such areas in 2021.²⁷⁷ In 2022, 6,526 asylum seekers settled in such areas.²⁷⁸

On 14 October 2022 the parties in the now new Government and the Sweden Democrats expressed in the Tidö Agreement that it intends to end altogether the opportunity for asylum seekers to choose and arrange their own accommodation. The government wants to introduce transit centres where asylum seekers are to spend the entire asylum process. An ongoing inquiry will be given new instructions to analyse and develop proposals on this.²⁷⁹

²⁷⁰ 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).

²⁷¹ 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: <https://bit.ly/3XFLfEc>; VSIU, *Report about Legal Uncertainties in the Asylum Process For Unaccompanied Minors in Sweden*, 26 February 2018, available at: <http://bit.ly/3Jbwqoz>; *Rapport om rättsosäkerhet i asylprocessen för ensamkommande barn och unga*, September 2017, available in Swedish at: <http://bit.ly/2C5QySC>

²⁷² HFD 2022 ref. 40, 13 October 2022, available in Swedish at: <https://bit.ly/3FSzpQ3>.

²⁷³ Section 10a, Law on Reception of Asylum Seekers and Others, 1994:137

²⁷⁴ See section 7a-7c, Law on Reception of Asylum Seekers and Others, 1994:137.

²⁷⁵ Förordning (2018:151) om statsbidrag till kommuner med socioekonomiskt eftersatta områden Svensk författningssamling 2018:2018:151 t.o.m. SFS 2020:1266 - Riksdagen, available in Swedish at: <http://bit.ly/3J9kAeC>. To check whether an area is considered “socio-economically challenged” it is possible to use this site: <http://bit.ly/3XE3Wbj>

²⁷⁶ SVT, *Migrationsverket ser ingen tydlig effekt av nya ebo-lagen*, available in Swedish at: <https://bit.ly/3k1cCW7>.

²⁷⁷ Information received 11th of January 2023 from the Statistics Unit at the Swedish Migration Agency via e-mail (statistik-support@migrationsverket.se).

²⁷⁸ Information received 11th of January 2023 from the Statistics Unit at the Swedish Migration Agency via e-mail.

²⁷⁹ Tidöavtalet (The Tidö Agreement), available online at: <https://bit.ly/3wuCh0t>, 37.

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 2022 (in original currency and in €): SEK 2,130 / €190,91

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 has not been raised since 1994 and are as follows:²⁸⁰

Category of applicant	Allowance in accommodation centres with food provided	Allowance in private accommodation
Single adult	SEK 24 / € 2.15	SEK 71 / € 6.36
Adults sharing accommodation	SEK 19 / €1,70 per person	SEK 61 / € 5,47 per person
Child aged 0-3	SEK 12 / € 1.08	SEK 37 / € 3.32
Child aged 4-10	SEK 12 / € 1.08	SEK 43 / € 3.85
Child aged 11-17	SEK 12 / € 1.08	SEK 50 / € 4.48

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.

The allowance for asylum seekers is considerably lower than the allowance for settled persons 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 2023 illustrates this difference:

²⁸⁰ Migration Agency, 'Financial support for asylum seekers', available in Swedish at: <https://bit.ly/2O4bepZ>.

Category	Asylum seekers in private accommodation	Settled persons on social welfare
Single adult	SEK 2,130 / € 190.91	SEK 4,620 / € 414.67
2 adults	SEK 3,660 / € 328.10	SEK 7,550 / € 677.65
1 adult 1 child (aged 2)	SEK 3,240 / € 290.50	SEK 7,440 / € 667.78
1 adult 2 children (aged 2-5)	SEK 4,530 / € 406.17	SEK 10,470 / € 939.74
2 adults 2 children (aged 5-12)	SEK 6,160 / € 552.31	SEK 14,680 / € 1,317.61
2 adults 3 children (aged 2-5-12)	SEK 7,020 / € 629.42	SEK 17,650 / €1,584.18
2 adults 4 children (aged 12-14-15-17)	SEK 8,160 / € 731.64	SEK 25,190 / € 2,260.60

Sources: National Social Welfare Board, 1 January 2023; Migration Agency.

3. Reduction and withdrawal of material reception conditions

Indicators: Reduction or Withdrawal of Reception Conditions

- Does the law provide for the possibility to reduce material reception conditions?
☒ Yes ☐ No
- Does the law 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 by an expulsion order.²⁸¹ 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. 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.²⁸² In 2022, there were 18,922 persons with legally enforceable removal orders registered with the Migration Agency.²⁸³ According to Section 11 LMA, the right to financial assistance does not end if the decision on rejection or deportation cannot be enforced as a result of the Migration Agency or a court having decided on inhibition or having granted a new trial in accordance with ch. 12. Section 19 of the Aliens Act. Section 11 LMA also states that it is possible to allow a person continued financial assistance if it is considered "obviously unreasonable" to cease this right.

A decision by the Migration Agency to reduce or cease aid may be appealed to the Administrative Court.²⁸⁴ 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. This applies even though the person is not entitled to any aid under

²⁸¹ Section 10, Law on Reception of Asylum Seekers and Others, 1994:137.

²⁸² Section 11, Law on Reception of Asylum Seekers and Others, 1994:137.

²⁸³ Migration Agency, *Monthly statistical report for December 2022, including year-end numbers*, Dnr: 1.1.1.2-2022-1381.

²⁸⁴ Section 22, Law on Reception of Asylum Seekers and Others, 1994:137.

the LMA. Bearing in mind that it is very hard to be considered as cooperating in the enforcement of a removal decision, the 'cooperation criterion' excludes all absconded families from any social aid.²⁸⁵

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. 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 the Court concluded 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.²⁸⁶

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.²⁸⁷

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.²⁸⁸

Asylum seekers that have been allowed to work during the asylum process may continue to work until they leave the country or until their decision becomes final. The right to work ceases to apply if the person does not participate in the enforcement of their decision on rejection or deportation when it has become legally binding.

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.

On 14 October 2022 the newly elected Swedish Government announced that it intends to introduce transit centres where asylum seekers are to spend the entire asylum process. The details of this proposal are not yet decided but the use of such transit centres would likely have an impact on the freedom of movement if they are to be used.²⁸⁹

²⁸⁵ Supreme Administrative Court, Decision 1527–1529-16, 5 June 2017, available in Swedish at: <http://bit.ly/3HwXeOX>.

²⁸⁶ Supreme Administrative Court, Decision 4464-17 and 6418-17, 11 June 2018, available in Swedish at: <http://bit.ly/3JejjCQ>.

²⁸⁷ Administrative Court of Appeal of Stockholm, UM 4419-19.

²⁸⁸ Supreme Administrative Court, HFD 2021:4, Mål: 4234-20 - Högsta förvaltningsdomstolen, available at: <https://bit.ly/3Lr0ZnF>.

²⁸⁹ Tidöavtalet (The Tidö Agreement), available online at: <https://bit.ly/3wuCh0t>, 37.

B. Housing

1. Types of accommodation

Indicators: Types of Accommodation²⁹⁰

1. Number of municipalities with reception centres:²⁹¹ Not available
2. Total number of places in reception centres: 19,593
3. Total number of persons in reception centres: 12,576
4. Total number of persons in private accommodation: 13,290
5. Total number of persons in other forms of accommodation:²⁹² 2,080
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 reception centre and is acquired through public procurement. Ordinary apartments are usually the Migration Agency's primary option for accommodating asylum seekers.²⁹³ Asylum seekers can choose to live at a centre but in that case they might need to move to a town where the Migration Agency can offer them a place. There are differences in the way material reception conditions are provided depending on the procedure ("track") in which asylum seekers are in. For applicants in the [Dublin](#) procedure ("Track 5A") and the [Accelerated Procedure](#) ("Track 4"), for example, accommodation is located close to airports, with the aim of speeding up potential removal from Sweden.

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.

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 (see [Criteria and restrictions to access reception conditions](#)).²⁹⁴

The total number of asylum seekers registered in the reception system at the end of 2022 was 61,350 (up from 23,353 in 2021), of which 8,542 were living in Migration Agency accommodation, 38,070 in private accommodation and 14,738 in other forms of accommodation.²⁹⁵ Most likely the increase from the end of 2021 is due to persons from Ukraine coming to Sweden.

²⁹⁰ Average numbers for 2022: Migration Agency, *Annual Report 2022*, available in Swedish at: <http://bitly.ws/AUE8>.

²⁹¹ Both permanent and for first arrivals. This refers to the number of municipalities where the Migration Agency rents flats or other accommodation.

²⁹² This includes privately placed unaccompanied minors, youth in care arrangements, persons in criminal detention and others.

²⁹³ Migration Agency, 'Housing for asylum-seekers', available in Swedish at: <https://bit.ly/3fquSpf>.

²⁹⁴ Section 10a, Law on Reception of Asylum Seekers and Others, 1994:137.

²⁹⁵ Migration Agency, Monthly Statistical Report, December 2022, 29.

The number of places in Migration Agency accommodation increased from 14,810 in 2021 to 19,593 in 2022.²⁹⁶

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.²⁹⁷ In 2022 the government asked the Migration Agency to comment on a proposal to introduce a new kind of departure centre (återvändandecenter). The Migration Agency’s assessment was that the assignment to introduce such new departure centres was complex and needed further analysis. Among other things the Migration Agency came to the conclusion that the new kind of departure centres (återvändandecenter) would be similar to the existing departure centres (återreseboende) but would include more persons at an earlier stage of the process.

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
1. What is the average length of stay of asylum seekers in the reception centres? 558 days²⁹⁸
2. 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.

According to information from the Migration Agency, they assume that two people can share a room in an apartment when they assess how many places there should be in an apartment. In collective housing, there are individual assessments. But the conditions of the building and the property ultimately determine what is appropriate. The Migration Agency takes into account, among other things, escape possibilities, air flows in the ventilation, and how many people are allowed to share the kitchen and hygiene areas. When placing asylum seekers in temporary housing, the Migration Agency also make individual assessments to find the right place. In some cases when there are special needs, it may be necessary for individuals to live alone, even though there are several places in the same room or residence.

In a report investigating crimes in asylum reception centres in 2018, the Swedish National Council for Crime Prevention reported several crimes. 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 indicated that mental illness issues and overcrowding were risk factors which contributed to increasing such incidents. The report also noted that there are only a few collective accommodations designed for women. It further highlighted that many crimes or incidents go unreported as a result of fear, a lack of trust in authorities, or the fear to jeopardize

²⁹⁶ Migration Agency, Annual Report 2022, Dnr: 1.3.2-2023-2262, available in Swedish at: <http://bitly.ws/AUE8>.

²⁹⁷ Migration Agency, *Annual Report 2020*, available in Swedish at: <https://bit.ly/2Ngcrum>, 48.

²⁹⁸ Migration Agency, *Monthly statistical report for December 2022*, including year-end numbers, 27.

their asylum process.²⁹⁹ In 2020, the Swedish Church also reported that women are especially vulnerable and subjected to sexual harassment and assault.³⁰⁰

While there are no reports of 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.³⁰¹

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*) 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: 2022	
Category of applicant	Average stay (days)
Persons returning voluntarily	271
Persons forcibly removed	1,265
Persons absconding	920
Persons granted permits referred to municipalities	724
Persons granted permits arranging other accommodation	603
Total average	558

Source: Migration Agency, *Monthly Statistical Report*, December 2022, 30.

²⁹⁹ BRÅ, *Brott och brottsutsatthet på kollektiva asylboenden under 2018*, available at: <https://bit.ly/39KzXbc>.

³⁰⁰ FRA, *Migration: Key Fundamental Rights Concerns. Quarterly Bulletin*, November 2020, available at: <https://bit.ly/36BeJug>, 27.

³⁰¹ Information available in Swedish at: <http://bit.ly/3Ddbee1>

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?
❖ If yes, when do asylum seekers have access the labour market? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
The first day |
| 2. Does the law allow access to employment only following a labour market test? | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| 3. Does the law only allow asylum seekers to work in specific sectors?
❖ If yes, specify which sectors: | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Unskilled sector |
| 4. Does the law limit asylum seekers' employment to a maximum working time?
❖ If yes, specify the number of days per year | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| 5. Are there restrictions to accessing employment in practice? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> 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 they have received a refusal of entry decision with immediate effect, including if they fall 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 they cooperate 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.³⁰²

In 2020, 9,527 asylum-seekers were granted the right to seek work.³⁰³ In 2021, 3,943 asylum-seekers were granted the right to work. The number increased to 7,499 in 2022.

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 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 2020.³⁰⁴ The situation did not improve in 2021, as the general unemployment rate further increased to 8.8%.³⁰⁵ In 2022, the general unemployment rate decreased to 7,5%.³⁰⁶

Should an asylum seeker obtain a job offer at another place in Sweden, they can move there and get nominal support towards living costs of SEK 350 (€ 40) for a single person and SEK 850 (€ 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

³⁰² Migration Agency, *Handbok i Migrationsrätt*, section AT-UND, 5.

³⁰³ Information provided by the Swedish Migration Agency.

³⁰⁴ The Government Agency Statistics Sweden, 'Unemployment in Sweden', available in Swedish at: <http://bit.ly/2v5GWdu>.

³⁰⁵ The Government Agency Statistics Sweden, 'Unemployment in Sweden', available in Swedish at: <http://bit.ly/2v5GWdu>.

³⁰⁶ The Government Statistics Sweden, available in Swedish at: <http://bit.ly/3G16xoX>.

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 they have sufficient means to support and accommodate their 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.³⁰⁷

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. In 2022, 637 asylum seekers were granted work permits after a legally binding deportation order.

2. Access to education

Indicators: Access to Education

- | | |
|--|---|
| 1. Does the law provide for access to education for asylum-seeking children? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| 2. Are children able to access education in practice? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |

Asylum seeking children have full access to the Swedish school system and they are to a great extent integrated in regular schools. They are not covered by the law obliging children between the ages of 6 and 16 to attend school but have the right to attend, if they so wish. The right to go to school has also been confirmed in law for those children still present in Sweden with an expulsion order and who have absconded with their parents.³⁰⁸

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.³⁰⁹

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.³¹⁰

Following several legislative changes³¹¹ there are (limited) possibilities to get a residence permit allowing applicants to continue their studies.³¹² 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

³⁰⁷ Chapter 5 Section 15 a Aliens Act, Chapter 4 Section 4 a Aliens Ordinance.

³⁰⁸ Swedish Parliament, *Betänkande 2012/13:UbU12 Utbildning för barn som vistas i landet utan tillstånd*, available at: <http://bit.ly/1GfU4uO>.

³⁰⁹ Skolverket, *Nyanländas rätt till utbildning*, available in Swedish at: <https://bit.ly/39JXuZK>.

³¹⁰ The 2011 School Regulation (Skolförordningen 2011:185), Chapter 5, Paragraph 7.

³¹¹ For an overview see AIDA, *Country Report Sweden, 2021 Update*, May 2022, available at: <https://bit.ly/3R31wRd>, 101.

³¹² Migration Agency, 'Frågor och svar om uppehållstillstånd för gymnasie studier', available in Swedish at: <http://bit.ly/3Hti95m>.

on whether the person is an unaccompanied child, whether they are 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 25.³¹³

There have been criticisms pointing out that very few people match all criteria to be granted residence permit on this ground.³¹⁴ On 1 July 2018, a new legislation was introduced which made it easier to be granted residence permit to finish secondary education. Those who met the criteria in the new provisions were able to re-apply for a residence permit.³¹⁵ By August 2019, 7,303 persons were granted residence permits based on this provision.³¹⁶ This specific provision was only in force for a limited period. 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.

D. Health care

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

During the asylum process and until the asylum seeker leaves Sweden or is granted a residence permit, they are 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).³¹⁷

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.³¹⁸

³¹³ Swedish Refugee Law Center, *Kan jag få uppehållstillstånd enligt gymnasielagen*, available in Swedish at: <https://bit.ly/3ufHZQW>.

³¹⁴ Swedish Television, ‘Migrationsverket: “Gymnasielagen ingen räddning”, 6 October 2017, available in Swedish at: <http://bit.ly/2GpkjBC>.

³¹⁵ Section 16 f, Law on temporary limitations to the possibility of being granted a residence permit in Sweden.

³¹⁶ Swedish Red Cross, *Mitt liv räknas*, February 2020, available in Swedish at: <https://bit.ly/2A8rFdX>.

³¹⁷ 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)).

³¹⁸ 1177 Vårdguiden, ‘Healthcare in Sweden for asylum-seekers, people with no papers and people in hiding’, available at: <http://bit.ly/2GoMC3k>.

County councils are the authorities 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-ays) may differ depending on the county council, region and type of care involved. But in general asylum seekers pay SEK 50 (€ 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 SEK 25 (€ 2.30) per visit. Medical transportation costs SEK 40 (€ 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 SEK 50 (€ 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-ays) for emergency care for children in some of the regions.³¹⁹

If an asylum seeker pays more than SEK 400 (€ 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 SEK 400. 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.³²⁰

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.

As mentioned above, the health care an asylum seeker is entitled to is limited to urgent medical or dental care that cannot be “postponed” (*“vård som inte kan anstå”*). It is the treating physician or dentist that makes the assessment if the person seeking health care is in need of health care that cannot be postponed. Critics highlight that the concept of “health care that cannot be postponed” is inexplicit and difficult to interpret for the health care staff.³²¹ Transkulturellt Centrum (a part of the County Council of Stockholm, Region Stockholm) has expressed concern that persons seeking health care rarely gets questions about torture and health care staff are seldomly educated in recognising, documenting and treating injuries of torture.³²² This means that the access to treatment for injuries of torture in practice is limited and depending on which physician or dentist that medically examines the asylum seeker.

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.³²³

The new Swedish government, following the general election in September 2022, has proposed that employees that come in contact with persons that live in Sweden with an expulsion order that has gained legal force should report these persons to the police or the Migration Agency. Critics point out that this is not in accordance with the health care ethics and could risk that persons in need of health care wait even

³¹⁹ 1177 Vårdguiden, ‘Healthcare in Sweden for asylum-seekers, people with no papers and people in hiding’, available at: <http://bit.ly/2GoMC3k>.

³²⁰ Migration Agency, ‘Fees for medical care’, available at: <https://bit.ly/37Y350F>.

³²¹ Läkare Utan Gränser, ‘Ge asylsökande och papperslösa vård på lika villkor’, 28 January 2018, available in Swedish at: <http://bit.ly/403TZFS>.

³²² Transkulturellt Centrum, ‘Tortyrskadade patienter’, available in Swedish at: <http://bit.ly/3Jf9zlx>

³²³ Swedish Red Cross, *Nedslag i verkligheten – tillgång till vård för papperslösa*, 2018, available at: <https://bit.ly/3Px1nnE>.

longer before contacting a health care provider and could by that be even sicker when getting the medical examination.³²⁴

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 (same age group) 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.³²⁵ 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.³²⁶

As regards access to health care in the context of Covid-19, such health care 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.³²⁷

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 be made throughout the asylum procedure. Examples of special accommodation include ground-level

³²⁴ AftonBladet, 'Vi kommer att vägra ange våra patienter', 21 December 2022, available in Swedish at: <http://bit.ly/3kFLEYD>.

³²⁵ EvaMärta Granqvist och Joel Larsson. *Find a humane solution for Sweden's unaccompanied young people – now!*, October 2020, available at: <https://bit.ly/3ugPWpB>.

³²⁶ Röda Korsets Högskola, 'Study on post-traumatic stress among newly arrived children and young people points to continued need for support', 16 April 2021, available at: <http://bit.ly/3JfqQLy>.

³²⁷ Migration Agency, *Rutin: Ta ställning till särskilda behov, initialt*.

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.³²⁸

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.³²⁹

The Migration Agency had previously special accommodation for especially vulnerable people in the three major cities: **Stockholm, Gothenburg and Malmö**. However, they are all closed today and the Migration Agency has not acquired any new centres. The current solutions are a combination of both adapting the living arrangements in already existing centres and, in some cases, providing private apartments. Which solution is preferred varies depending on the need of the vulnerable person and interim solutions will sometimes have to be found since the adaptation of the existing accommodations might take time. The Migration Agency makes an individual assessment in each case where they should consider the need of special competences, medical care and private accommodation. For people that previously been subject to discrimination they should also take into account the safety of the person and if a special safe accommodation is preferred.

In cases where LGBTQI+ persons are involved, private apartments are preferred and they try to place the persons close to larger cities, specialised centres or support centres for LGBTQI+ persons.³³⁰

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.

During a process of age assessment, the person will still be considered a child until a decision has been made that says differently. A person who claims to be an unaccompanied child will not be placed with adults until an assessment is made that concludes that the person is not a child. If a person claims to be a child but the Migration Agency assesses that it is obvious that the person is an adult, the Migration Agency can decide to change the person's age directly when the person applies. The person will then be placed with adults.

Municipalities are also responsible 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 and over are given a daily allowance of personal needs such as clothes, medicine and leisure activities.

³²⁸ Migration Agency, *Rutin: Insatser för asylsökande med särskilda behov*.

³²⁹ Migration Agency, *Rutin: Insatser för asylsökande med särskilda behov*.

³³⁰ Information provided by the Swedish Migration Agency.

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 regarding their accommodation were addressed to the Discrimination Ombudsman. However, none of these complaints lead to any further investigation.³³¹ In 2022, 34 complaints against the Swedish Migration Agency were registered to the Discrimination Ombudsman but they could not give information as to whether these were from asylum seekers and how many were regarding accommodation.³³² No complaints against the Migration Agency regarding discrimination based on sexual orientation were registered in 2021 or 2022.³³³

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. In 2022, at least one centre in Västerås has special apartments for LGBTQI+ persons and activities arranged with specialised organisations.³³⁴

Asylum seekers who declare their LGBTQI+ identity as a reason for asylum are offered a place in the Migration Agency's temporary housing. 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 provided with in the asylum process.³³⁵

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.³³⁶ 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.

³³¹ Diskrimineringsombudsmannen. Information provided upon request in February 2020.

³³² Diskrimineringsombudsmannen. Information provided upon request in March 2023.

³³³ Information provided by Diskrimineringsombudsmannen via email in March 2022 and March 2023.

³³⁴ Information provided by the Swedish Migration Agency.

³³⁵ Migration Agency, Annual Report 2021, available in Swedish at: <https://bit.ly/3KTSUYy>, 106.

³³⁶ Västerviks folkhögskola, *Mottagande av asylsökande*, available in Swedish at: <https://bit.ly/39YGvWa>.

5. Reception of women

In 2022, a total of 6,002 women applied for asylum, which is significantly more than 4,219 women in 2021.³³⁷ 30,850 women applied for protection under the Temporary Protection Directive in 2022. Throughout the year, a total average of 26,860 women were registered in the reception system.³³⁸ This is significantly more than 10,092 women in 2021.

Out of the women registered in the reception system:

- ❖ 24% are listed as housed under the Swedish migration Agency and are asylum seekers,
- ❖ 18% are in private housing and registered as seeking asylum,
- ❖ 44% are in private housing and have applied for protection under TPD,
- ❖ 11% are listed in housing under the SMA and applied for protection under TPD,
- ❖ 3% in other housing.

In 2019, GREVIO published its report on Sweden's implementation of the Istanbul Convention.³³⁹ GREVIO highlighted shortcomings 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 reception accommodation centres have been reported, and three women have been killed since 2015. There is an overall lack of formal policy on these issues and there is thus discretion left to the individual management of the different centres.

Thus, while there has been improvement in identifying victims of gender-based violence, their accommodation remains an issue.

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.³⁴⁰ 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:

³³⁷ Swedish Migration Agency, 'Asylum', available at: <http://bit.ly/3Jdz4dg>.

³³⁸ Swedish Migration Agency, 'Asylum', available at: <http://bit.ly/3Jdz4dg>.

³³⁹ GREVIO, *Baseline Evaluation Report: Sweden*, 21 January 2019, available at: <https://bit.ly/3riG6lu>.

³⁴⁰ Migration Agency, *Rutin: Skyddat boende/skyddad adress/sekretessmarkering för asylsökande utsatta för våld eller hot om våld*.

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

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

This information is provided both orally and in writing. In general, other asylum seekers inform each other of more detailed aspects. Each asylum seeker also has access to a reception officer of the Migration Agency who can provide more detailed information. The number of languages documents are available in can vary from 8 up to 21 (information on the bank card). The information on housing is available in Albanian, Amharic, Arabic, Bosnian, Croatian, Dari, French, Serbian, Persian, Romani, Russian, Somali, Spanish 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 2022:	3,029
2. Number of persons in detention at the end of 2022:	421
3. Number of detention centres:	6
4. Total capacity of detention centres:	567

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.³⁴¹

The Police authority can issue a detention decision before asylum seekers have their asylum case registered at the Migration Agency as well as 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.³⁴² The Police is also responsible for taking decisions on detention when the Migration Agency has handed over 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.³⁴³ 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.³⁴⁴

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.³⁴⁵ 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 takes over responsibility.³⁴⁶

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.³⁴⁷

The number of detainees increased from 2,217 in 2021 to 3,029 in 2022. This includes 7 children and 3,022 adults, out of which 286 were women and 2,736 men (compared to 1 child and 2,215 adults - 161 women and 2,055 men – in 2021). There was a decrease in the number of detainees in 2020 compared with 2019 due to COVID-19. The number of detainees remained approximately at the same level in 2021 as in 2020. During 2022 the numbers returned to the normal situation before COVID-19.³⁴⁸

³⁴¹ Ch. 10, Section 13(3) Aliens Act.

³⁴² Ch. 10, Sections 13 and 17 Aliens Act.

³⁴³ Ch. 10, Section 14 Aliens Act.

³⁴⁴ Ch. 16, Section 11 Aliens Act.

³⁴⁵ Lag (1991:572) om särskild utlänningskontroll.

³⁴⁶ Ch. 10, Section 17 Aliens Act; Lag (1991:572) om särskild utlänningskontroll.

³⁴⁷ Ch. 12, Section 14 Aliens Act.

³⁴⁸ Migration Agency, *Annual Report 2022*, Dnr: 1.3.2-2023-2262, available in Swedish at: <http://bitly.ws/AUE8>, 84.

Detention orders in Sweden: 2019-2022				
Year	2019	2020	2021	2022
Number	4,144	2,528	2,216	3,029

Source: Migration Agency.

During 2022 a new detention centre in **Mölnadal** replaced the detention centre in **Kålleröd**. At the end of 2022 there were six detention centres (**Gävle**, **Märsta**, **Flen**, **Mölnadal**, **Ljungbyhed**, **Åstorp**) with an overall capacity of 567.³⁴⁹

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.³⁵⁰

B. Legal framework of detention

1. Grounds for detention

Indicators: Grounds for Detention

- In practice, are most asylum seekers detained
 - ❖ on the territory: ☒ Yes ☐ No
 - ❖ at the border: ☐ Yes ☒ No
- Are asylum seekers detained during a regular procedure in practice?
 - ☐ Frequently ☒ Rarely ☐ Never
- Are asylum seekers detained during a Dublin 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 after the claim has been rejected at the final instance. A person can only be deprived of their 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) Their identity is unclear upon entry; *and*
- (2) They cannot make probable that the identity given to the authorities is correct.

Moreover, an alien may be detained:³⁵¹

- (1) Where it is necessary for the carrying out of an investigation of their right to remain in Sweden;
- (2) Where it is probable that they will be refused entry or will be expelled; or
- (3) For the purpose of preparing or carrying out deportation.

³⁴⁹ Migration Agency, *Annual Report 2022*, Dnr: 1.3.2-2023-2262, available in Swedish at: <http://bitly.ws/AUE8>, 84.

³⁵⁰ Ch. 12, Section 14 Aliens Act.

³⁵¹ Ch. 10, Section 1(2) Aliens Act.

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.³⁵²

Detention can be applicable in so called Dublin cases, pursuant to Article 28 of the Dublin III Regulation. 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.³⁵³ 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.³⁵⁴

The courts also regularly rule on questions of detention. 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.³⁵⁵ This was confirmed on 25 January 2021.³⁵⁶ 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 22 June 2022 the Migration Court of Appeal found that a decision on detention is repealed when the expulsion order is enforced. Should the person return to Sweden and be detained again, there has to be a new decision on detention, not only a new assessment of the former decision on detention.³⁵⁷

To determine if a person is at considerable risk of absconding from a Dublin procedure there has to be an individual assessment of all circumstances from case to case. When doing such an assessment the circumstances have to be concrete and implicate a considerable risk of absconding. Examples of such concrete circumstances include if the person has used different aliases, if the person has been expressing strongly negative feelings regarding the decision on transfer according to the Dublin Regulation, if the person has stated incorrect information or if the person has withheld essential information.³⁵⁸

2. Alternatives to detention

Indicators: Alternatives to Detention

1. Which alternatives to detention have been laid down in the law?

<input checked="" type="checkbox"/>	Reporting duties
<input checked="" type="checkbox"/>	Surrendering documents
<input type="checkbox"/>	Financial guarantee
<input type="checkbox"/>	Residence restrictions
<input type="checkbox"/>	Other

2. Are alternatives to detention used in practice?

<input checked="" type="checkbox"/>	Yes	<input type="checkbox"/>	No
-------------------------------------	-----	--------------------------	----

³⁵² Ch. 10, Section 1(3) Aliens Act.

³⁵³ Migration Court of Appeal, MIG 2015:5, 3 June 2015, available at: <http://bit.ly/2mzQO8X>.

³⁵⁴ Migration Court of Appeal, MIG 2017:23, 5 December 2017, available at: <http://bit.ly/2FV6IGQ>.

³⁵⁵ Migration Court of Appeal, MIG 2020:14, 30 June 2020.

³⁵⁶ Migration Court of Appeal, MIG 2021:3, 25 January 2021, available in Swedish at: <http://bit.ly/3XE2y8w>.

³⁵⁷ Migration Court of Appeal, MIG 2022:5, 22 June 2022, available in Swedish at: <http://bit.ly/3kx3Q6E>.

³⁵⁸ SMA, Legal Position, Förvar i ärenden där Dublinförordningen ska tillämpas, Lifos no 45250, available in Swedish at: <http://bit.ly/3IN6CWt>.

Supervision is an alternative measure that may be used instead of detention.³⁵⁹ Authorities are obliged to consider supervision 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.³⁶⁰ Concerns have been raised been raised by several actors in 2020, including by the Parliamentary Ombudsman (JO), including *inter alia* on insufficient use of supervision as an alternative to detention, placement of detainees in prison or police facilities and a lack of sufficient proportionality assessments.³⁶¹

Supervision entails regular reporting to the police or to the Migration Agency, depending on which authority is responsible for the decision. It may also entail surrendering passports or other identity documents.³⁶² 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 2022, a total of 108 supervision decisions were taken by the Migration Agency, a decrease from 113 decisions in 2021.³⁶³

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.³⁶⁴

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

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

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”,³⁶⁵ or
- (2) For the purpose of enforcing or preparing the enforcement of a refusal of entry or an expulsion order.³⁶⁶

³⁵⁹ Ch. 10, Section 6 Aliens Act.

³⁶⁰ Swedish Red Cross, *Förvar under lupp*, June 2019, available in Swedish at: <https://bit.ly/3R3U34m>. 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>.

³⁶¹ 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>.

³⁶² Ch. 10, Section 8 Aliens Act.

³⁶³ Information provided by the Migration Agency's statistics unit.

³⁶⁴ Migration Court of Appeal, MIG 2020:2, 5 February 2020, available in Swedish at: <http://bit.ly/3WDSlrF>

³⁶⁵ Ch. 10, Section 2(1) Aliens Act.

³⁶⁶ Ch. 10, Section 2(2) Aliens Act.

In both cases, there is an express condition that alternatives to detention (“supervision”) are not deemed sufficient to meet the purpose pursued.³⁶⁷ Children may not be detained for over 72 hours or, in exceptional circumstances, another 72 hours, hence in total maximum 6 days.³⁶⁸ A child cannot be separated from its guardians through the detention of either the guardian or the child.³⁶⁹ Where the child has no guardian in Sweden, detention may only be applied in exceptional circumstances.³⁷⁰

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.”³⁷¹

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 2022 show that 7 children were detained, 4 girls and 3 boys. The average days of stay for girls were 2 days and for boys 2 days. In 2021, one child was detained for one day.³⁷²

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.³⁷³

In May 2020, RFSL Ungdom (RFSL Youth) published a report regarding young LGBTQI+ persons in detention.³⁷⁴ The three detained persons interviewed in the report expressed *inter alia* stress and fear regarding who would find out about their sexual orientation and how they would be treated because of it. Recommendations to the Migration Agency in the report include training of staff at the detention centres in LGBTQI+ matters and the establishing of safe sections where LGBTQI+ persons can be placed if they want or need.

4. Duration of detention

Indicators: Duration of Detention

- | | |
|--|-----------|
| 1. What is the maximum detention period set in the law (incl. extensions): | 12 months |
| 2. In practice, how long in average are asylum seekers detained? | 52 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.³⁷⁵ 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.³⁷⁶ Even if there are such exceptional circumstances, they cannot be 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 because it takes time to acquire the necessary

³⁶⁷ Ch. 10, Section 2(1)(3) and 2(2) Aliens Act.

³⁶⁸ Ch. 10, Section 5 Aliens Act.

³⁶⁹ Ch. 10, Section 3 Aliens Act.

³⁷⁰ Ch. 10, Section 3 Aliens Act.

³⁷¹ Swedish Red Cross, *Barn i förvar*, November 2018, available in Swedish at: <https://bit.ly/3jPifXm>

³⁷² Migration Agency, *Annual Report 2022*, Dnr: 1.3.2-2023-2262, available in Swedish at: <http://bitly.ws/AUE8>, 84.

³⁷³ Migration Agency website, *Uppsikt och förvar*, available in Swedish at: <https://bit.ly/3cLbCDE>.

³⁷⁴ RFSL Ungdom, *Attention Detention – Situationen för HBTQ-ungdomar i Migrationsverkets förvar*, 2020.

³⁷⁵ Ch. 10, Section 4(2) Aliens Act.

³⁷⁶ Ch. 10, Section 4(2) Aliens Act.

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.³⁷⁷

The average period of detention was 52 days in 2022, thus decreasing from 57 days in 2021 and 55 days in 2020. This refers to an average 53 days for men and 37 days for women in 2022 (compared to 58 and 40 days respectively in 2021).³⁷⁸ The continued long detention periods in 2022 are probably due to the partly 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

During 2022 a new detention centre in **Mölndal** replaced the detention centre in **Källered**. At the end of 2022 there were six detention centres (**Gävle, Märsta, Flen, Mölndal, Ljungbyhed, Åstorp**) with an overall capacity of 567.³⁷⁹

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.³⁸⁰ 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).³⁸¹ 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

³⁷⁷ Ch. 10, Section 4(1) Aliens Act.

³⁷⁸ Migration Agency, *Annual Report 2022*, Dnr: 1.3.2-2023-2262, available in Swedish at: <http://bitly.ws/AUE8>, 84.

³⁷⁹ Migration Agency, *Annual Report 2022*, Dnr: 1.3.2-2023-2262, available in Swedish at: <http://bitly.ws/AUE8>, 84.

³⁸⁰ Ch. 11, Section 7 Aliens Act.

³⁸¹ See Swedish Refugee Law Center, *Hur ser regelverket ut när det gäller förvar i Sverige och finns det problem med hur det tillämpas?, Rapport om Förvar av juriststudenterna Cecilia Alpin och Arvid Skagerlind vid Uppsala Universitet inom ramen för en människorättssklinik*, 22 April 2020, available in Swedish at: <https://bit.ly/3vGq1bA>, Swedish Red Cross, *Förvar under lupp (Detention centres under the magnifying glass)*, May 2012, available at: <https://bit.ly/3jQl5vm>; CPT, *Report sent to the Swedish Government on the visit to Sweden from 9 to 18 June 2009*, 11 December 2009, available at: <http://bit.ly/2mdQ3Qk>

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.³⁸²

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.³⁸³

The CPT published the response of the Swedish authorities to the report on the 2021 visit, where the Swedish authorities express that apart from the regular presence of medical staff, staff employed at the detention centres are trained in first aid and the use of early warning of suicidal tendencies as well as techniques to cope with such situations. All detention staff working close to detainees also undergo training in the use of defibrillators. The Swedish authorities expressed that the Migration Agency may under certain circumstances decide that a detainee held in detention shall be placed in prison. Such a special placement can be decided to uphold order and security in the detention premises, as the Migration Agency does not have the capacity to handle persons who cause serious security disturbances and poses a threat to hem/herself or others.³⁸⁴

In their concluding observations on the eighth periodic report of Sweden the Committee against Torture (CAT) emphasized that detention of asylum seekers should only be used as a last resort and, where necessary, for as short a period as possible.³⁸⁵

2. Conditions in detention facilities

Indicators: Conditions in Detention Facilities

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

Chapter 11 of the Aliens Act contains specific rules on how the detention centre should be run. Aliens who are held in detention must be treated humanely and their dignity should be respected.³⁸⁶ 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 representative visits the detention centre regularly.

³⁸² JO, *Säkerhetsplacering förvarstagna berövas sina rättigheter*, 2020, available in Swedish at: <http://bit.ly/3qZLqZJ>.

³⁸³ 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>.

³⁸⁴ CPT, 'Council of Europe anti-torture Committee publishes the response of the Swedish authorities to the report on the 2021 visit', 25 February 2022, available at: <http://bit.ly/3R7v4Nx>.

³⁸⁵ CAT, *Concluding observations on the 8th periodic report of Sweden*, 2021, available at: <https://bit.ly/3ws6gGn>.

³⁸⁶ Ch. 11, Section 1 Aliens Act.

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.³⁸⁷

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. 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.³⁸⁸ 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.³⁸⁹ But, the detainee should be allowed to retain objects of personal value and other belongings.

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.

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.³⁹⁰

Mail sent to the detainee can sometimes be the object of examination, in which case it should be opened in the presence of the detainee. If the detainee does not consent to the package being opened in their presence then the object should be put aside and not opened. An examination of the contents should not include reading a letter or other written documents. Mail from legal counsel, lawyers, international organisations that have the right to receive complaints from individuals or from the UNHCR must not be opened.³⁹¹

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.³⁹² 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.³⁹³ They can have access to these objects upon leaving the detention centre, as a list needs to be made of all stored objects. All detainees have access to health care at the same level as other applicants, therefore, requiring, regular visits from nurses and doctors.³⁹⁴

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

Kållerød, Gothenburg: During their last inspection in 2018,³⁹⁵ 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

³⁸⁷ Ch. 11, Section 3 Aliens Act

³⁸⁸ Ch. 11, Section 7 Aliens Act.

³⁸⁹ Ch. 11, Section 8 Aliens Act.

³⁹⁰ Ch. 11, Section 9 Aliens Act.

³⁹¹ Ch. 11, Section 10 Aliens Act.

³⁹² Migration Agency, 'Supervision and detention', available in Swedish at: <http://bit.ly/3Y142tz>

³⁹³ Ch. 11, Sections 11-12 Aliens Act.

³⁹⁴ Ch. 11, Section 5 Aliens Act.

³⁹⁵ JO, *Inspektion av Migrationsverket, försvarsenheten i Kållerød, Göteborg, den 13–14 mars 2018*, available in Swedish at: <http://bit.ly/2JSx7WX>.

detention centre in many ways was satisfactory, but that the facility was overcrowded and there were problems with the detainees who have drug addictions. The JO noted some deficiencies, including

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

In March 2022 the Parliamentary Ombudsman (JO) made an inspection in accordance with the Optional Protocol to the Convention against Torture at the detention centre in Märsta. The Parliamentary Ombudsman (JO) expressed concerns about the following. During 2021 there had been detainees secluded for longer periods of time, as long as a couple of weeks. The Parliamentary Ombudsman (JO) noticed that the rooms where detainees were held secluded had camera surveillance all day long. According to the Parliamentary Ombudsman (JO) camera surveillance is a very serious breach of a person's privacy. Even though the area around the bathroom did not have camera surveillance, it was almost impossible for the detainee to take care of personal hygiene or changing clothes without being observed. The Parliamentary Ombudsman (JO) also noticed that personal information about the detainees were written on boards by the staff in a manner that made it possible for other detainees to see.³⁹⁶

In a decision dated in May 2022 the Human Rights Council Working Group on Arbitrary Detention expressed concerns at the very serious allegations concerning the lack of appropriate treatment provided to a detainee in Sweden for his health condition and recalled that all persons detained must be treated with humanity.³⁹⁷

Detention conditions during COVID-19

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.³⁹⁸ 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

³⁹⁶ The Parliamentary Ombudsman (JO) report from inspection available in Swedish at: <https://bit.ly/3kLMLpW>

³⁹⁷ Human Rights Council Working Group on Arbitrary Detention, *Opinion No. 26/2022 concerning Hassan Fazali (Sweden)*, 19 May 2022, available at: <https://bit.ly/3INcUFv>.

³⁹⁸ FRA, *Migration: Key Fundamental Rights Concerns*, November 2020, available at: <https://bit.ly/2ZcYnnv>, 32.

overcrowding, 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.³⁹⁹

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 died on 14 April 2020.⁴⁰⁰

During 2022 the running of the detention centres returned to normal activities similar to the situation before COVID-19.⁴⁰¹

3. Access to detention facilities

Indicators: Access to Detention Facilities

- | | | | |
|--|---|----------------------------------|-----------------------------|
| 1. Is access to detention centres allowed to | | | |
| 1. Lawyers: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Limited | <input type="checkbox"/> No |
| 2. NGOs: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Limited | <input type="checkbox"/> No |
| 3. UNHCR: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Limited | <input type="checkbox"/> No |
| 4. Family members: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Limited | <input type="checkbox"/> No |

Detainees are allowed visitors and to receive and make phone calls on an unrestricted basis. This also includes contacts with media or politicians. There can, however, be limitations based on practical reasons regarding the safe running of the detention centre.⁴⁰² 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

³⁹⁹ 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>.

⁴⁰⁰ JO, *Migrationsverkets åtgärder med anledning av COVID-19*, 9 October 2020, available in Swedish at: <https://bit.ly/3sukG55>

⁴⁰¹ Migration Agency, *Annual Report 2022*, Dnr: 1.3.2-2023-2262, available in Swedish at: <http://bitly.ws/AUE8>, 84.

⁴⁰² Ch. 11, Section 4 Aliens Act.

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 their 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 Fundamental Rights Agency 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.⁴⁰³

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.⁴⁰⁴

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? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| 2. If yes, at what interval is the detention order reviewed? | 2 weeks or 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.⁴⁰⁵ Review of alternatives to detention ("supervision") is carried out within 6 months.⁴⁰⁶

Where time limits are not respected, a decision to detain or hold a person under supervision ceases to be legally binding.⁴⁰⁷

Each review of a detention order must be preceded by an oral hearing.⁴⁰⁸ This also applies to supervision, unless it appears obvious from the nature of the investigation or other circumstances that no hearing is needed.

Depending on the authority responsible for the initial decision to detain, an appeal can be made either to the Migration Agency, the Migration Courts or to the Migration Court of Appeal. In the case of the latter, no leave to appeal is required as is the case for an asylum application. In certain cases, it is the responsible minister that can make a decision on detention. This detention decision can be reconsidered in accordance with the time limits and changed by the government. A government confirmation of a detention order can only be changed by another authority if new circumstances arise that are raised

⁴⁰³ FRA. *Migration Bulletin: Key Fundamental Rights Concerns*, November 2020, available at: <https://bit.ly/3qdfFge>, 3.

⁴⁰⁴ JO, *Migrationsverkets åtgärder med anledning av covid-19*, available in Swedish at: <https://bit.ly/3sukG55>.

⁴⁰⁵ Ch. 10, Section 9(1) Aliens Act.

⁴⁰⁶ Ch. 10, Section 9(2) Aliens Act.

⁴⁰⁷ Ch. 10, Section 10 Aliens Act.

⁴⁰⁸ Ch. 10, Section 11(1) Aliens Act.

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 clarified 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.⁴⁰⁹

2. Legal assistance for review of detention

Indicators: Legal Assistance for Review of Detention

1. Does the law provide for access to free legal assistance for the review of detention?
☒ Yes ☐ No
2. Do asylum seekers have effective access to free legal assistance in practice?
☒ Yes ☐ No

After 3 days in detention, an asylum seeker has access to free legal assistance on detention matters only.⁴¹⁰ 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 they have no parent in Sweden.⁴¹¹

E. Differential treatment of specific nationalities in detention

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

⁴⁰⁹ Migration Court of Appeal, MIG 2019:17, 22 October 2019, available in Swedish at: <http://bit.ly/3WDmk2H>.

⁴¹⁰ Ch. 18, Section 1(1)(4) Aliens Act.

⁴¹¹ 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 two years
 - ❖ Distressing circumstances (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 2016⁴¹² initially with the adoption of a temporary law.⁴¹³ The government expressed that the law was proposed in order to deter asylum seekers from coming to Sweden.⁴¹⁴ After a Cross-party Committee of Inquiry, on 22 June 2021 the Swedish Parliament voted in favour of introducing the proposed changes to the Aliens Act. They came into force on 20 July 2021. 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. 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).⁴¹⁵ 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. The new Government announced in October 2022 its intention to completely strike out the concept of permanent residence permits. According to a political agreement between the Government political parties and the Sweden Democrats the migration legislation will be subject to comprehensive changes with the aim to restrict the rights of asylum seekers to a minimum level in accordance with international obligations.⁴¹⁶

If a person is considered to be a **refugee**, they will receive a refugee status declaration. If they are considered to be a person in need of **subsidiary protection**, they will receive a subsidiary protection status declaration.

Convention refugees are, granted a three-year temporary permit with the right to **Family reunification**. Beneficiaries of **subsidiary protection** are granted an initial period of 13 months temporary residence permit with the same right to family reunification as refugees. A condition for family reunification is that the sponsor should have "well-founded" prospects of being granted a residence permit "for a longer time". The residence permit can be extended another two years if protection grounds persist. The temporary

⁴¹² For further details see AIDA, *Country Report Sweden, 2021 Update*, May 2022, available at: <https://bit.ly/3R31wRd>, 101.

⁴¹³ Lag om tillfälliga begränsningar av möjligheten att få uppehållstillstånd i Sverige, 2016:752, available at: : <https://bit.ly/3rNCGa6>.

⁴¹⁴ Government of Sweden, Temporary restrictions regarding the possibility of being granted a residence permit in Sweden, 22 June 2016, available in Swedish at: <http://bit.ly/3zdyPZG>.

⁴¹⁵ SOU 2020:54, En långsiktigt hållbar migrationspolitik, available in Swedish at: <http://bit.ly/3TQYNf0>, 25-28.

⁴¹⁶ Tidöavtalet (The Tidö Agreement), available online at: <https://bit.ly/3wuCh0t>, 34.

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.

A temporary residence permit may be granted when the circumstances in the case are particularly (for children) or exceptionally (for adults) distressing. Under the Temporary Law that was in force between 20 July 2016 and 19 July 2021, residence permits on this ground could only be granted if an expulsion would be in breach of an international convention obligation. The circumstances regarding the applicant's health condition, their private life in Sweden, and the situation in their 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, and could be prolonged for two years if the grounds persist. 817 first time applicants were granted permits for these reasons in 2022.⁴¹⁷ Temporary residence permit give the person the right to live and work in Sweden for thirteen months. During that time 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 2022, the Migration Agency granted residence permits in 3,742 first time asylum applications,⁴¹⁸ in comparison to 3,310 in 2021 and 4,922 in 2020.

The vast majority of beneficiaries of international protection applying for a renewal of their temporary residence permits have had it granted. In 2022, the Migration Agency received 28,312 applications and took decisions in 29,910 cases. The acceptance rate in cases tried on the merits was 97%. The vast majority of decisions on extensions of residence permits concerned **Syrians** (15,309 decisions, of which 14,901 were granted, or 99% of those tried on the merits), **Afghans** (5,056 cases, of which 4,493 were granted, or 92% of those tried on the merits), Eritreans (1,748 decisions, of which 1,613 were granted, or 99% of those tried on the merits), Stateless persons (1,544 decisions, of which 1,424 were granted, or 96% of those tried on the merits), and **Iraqis** (1,421 decisions, of which 1,339 were granted, or 97% of those tried on the merits). The average processing time for applications to extend residence permits based on protection status was 201 days in 2022.⁴¹⁹ There is no public information available as to the grounds for rejections mentioned above.

2. Civil registration

Persons residing in Sweden need to register at the Swedish Population Register.⁴²⁰

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.⁴²¹ If the parents are not registered, the taxation authorities will ask for additional information from the parents before registering the child. Thereafter the Tax authority will notify the Migration Agency who informs the parents that they must apply for residence permit for their child.⁴²²

To register an existing marriage that took place outside Sweden, the taxation authorities have to be notified and evidence of the marriage submitted. If the Tax authority deems the marriage to be valid in Sweden, it is registered in the population register. Marriages that take place in Sweden require that the

⁴¹⁷ Migration Agency, *Monthly statistical report December 2022*.

⁴¹⁸ Migration Agency, *Monthly statistical report December 2022*.

⁴¹⁹ Migration Agency, *Monthly statistical report December 2020*, 10-11.

⁴²⁰ Skatterverket, 'Moving to Sweden', available at: <http://bit.ly/1U1jcY>.

⁴²¹ Migration Agency, 'Children born in Sweden', available at: <http://bit.ly/2FbnVt1>.

⁴²² Skatterverket, 'New parents', available at <https://bit.ly/3f1ZAWM>.

couple first go through a procedure with the taxation authorities to prove that there are no impediments to marriage (*hindersprövning, such as marriages with underaged persons, polygami, or marriages between siblings*). 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.⁴²³

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 for a person who has a right to reside in Sweden.⁴²⁴

If civil registration does not take place promptly and the beneficiary of international protection needs **Health Care** then there is a risk that the care giver may bill the patient for health care that is not urgent or cannot be postponed. In practice this has not been reported to be a problem.

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.

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 Sweden will need a Coordination number.⁴²⁵ Coordination numbers are assigned upon requests from other public authorities or upon request from the concerned individual. In 2022, the Swedish Government proposed changes in the registry system and to introduce three different types of coordination numbers, clarifying whether the identity has been assessed as proven, probable, or uncertain. For the highest level of coordination number, proven identity, the applicant must appear in person at the Tax authority, this may include registering fingerprints. The Parliament approved the proposed changes that will enter into force in 2023.⁴²⁶

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. The national legislation overall reflects the conditions in Directive 2003/109/EC. For protection status holders the minimum five year residence period is calculated from the time of asylum application.⁴²⁷

⁴²³ Embassy of Sweden in London, 'Getting married in Sweden', available at: <http://bit.ly/3Jf4gJb>.

⁴²⁴ 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>.

⁴²⁵ Skatterverket, 'Coordination numbers', available at <https://bit.ly/3IGTvTf>.

⁴²⁶ Riksdag Skatteutskottets betänkande 2022/23:SkU4, available in Swedish at: <https://bit.ly/3j4lmhb>.

⁴²⁷ Ch. 5, Section 2 b and Ch. 5 a Section 2 Aliens Act.

4. Naturalisation

Indicators: Naturalisation

1. What is the waiting period for obtaining citizenship?	
❖ Refugee status, statelessness	4 years
❖ Subsidiary protection	5 years
2. Total number of citizenship grants in 2022:	75,338
3. Number of citizenship through naturalisation in 2022:	63,385

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 their 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 they have had during their 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**, they only have to have resided in Sweden for four years.⁴²⁸

If a person had a permanent residence permit or a residence permit for settlement when they entered Sweden, they count 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 they received approval.

A child can obtain Swedish citizenship through notification by the parent or guardian, if the child has a permanent residence permit and has been residing in Sweden since three years, or two years if the child is stateless.⁴²⁹

If a person is married to a Swedish citizen, or living in a registered partnership with or cohabiting with a Swedish citizen, they 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, they must have been a Swedish citizen for at least two years. The applicant must also have adapted well to Swedish society during their 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 their correct identity or if they 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.

⁴²⁸ Act on Swedish Citizenship, Section 11.

⁴²⁹ Act on Swedish Citizenship, Section 7.

The decision is taken by the Migration Agency and can be appealed to the same instances as in the case of applications for 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. This concerns cases where they are not able to get documents that could prove their identity but the identity could at least be assessed as probable. The Migration Agency does not consider that passports issued by Afghan or Somali authorities may prove the identity of the passport holder as regards applications for Swedish Citizenship.⁴³⁰

In 2021, 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.⁴³¹ According to a political agreement in October 2022 between the new Government political parties and the Sweden Democrats party a new inquiry shall propose additional conditions to qualify for Swedish citizenship, such as longer habitual residence, and sufficient resources to maintain themselves.⁴³²

In 2022, the Migration Agency registered 82,210 new applications for citizenship. A total of 89,789 first instance decisions were handed down in 2022, out of which 75,338 granted citizenship. The majority of citizenships were granted to applicants from **Syria** (18,245); **Afghanistan** 5,272); **Iraq** (2,901); Eritrea (7,150) and **Somalia** (5,398).⁴³³ The Migration Agency had 93,767 citizenship requests pending at the end of the year.⁴³⁴

The average number of days from application to decision at first instance was 452 days in 2022,⁴³⁵ compared to 372 in 2021, and 390 days in 2020.

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 Sweden adheres to relevant EU legislation and national law.

According to Chapter 4, Section 5, a person ceases to be a **refugee** when they: (1) have of their own free will used the protection of the country of which they are a citizen; (2) voluntarily apply for and regain

⁴³⁰ SMA, 'The Swedish Migration Agency's assessment of identity documents', available at: <http://bit.ly/3KdNs5t>.
⁴³¹ Regeringskansliet, 'Requirements for knowledge of Swedish and social studies for Swedish citizenship', available at: <https://bit.ly/3HHAMQf>.

⁴³² Tidöavtalet (The Tidö Agreement), available online at: <https://bit.ly/3wuCh0t>, 38.

⁴³³ Migration Agency, *Inkomna och avgjorda medborgarskapsärenden innevarande år*, available in Swedish at: <https://bit.ly/3leVywD>.

⁴³⁴ Migration Agency. Monthly statistical report December 2022,

⁴³⁵ Ibid.

citizenship of said country; (3) apply for and get citizenship in another country; (4) return and reside yet again in the country where they used to reside. The person also ceases to be a refugee (5) when the circumstances in connection with which they have 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 came much more in focus. The Migration Agency, which is also responsible for cessation procedures, has therefore issued guidance on these topics.⁴³⁶ 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.⁴³⁷

In 2021, 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.⁴³⁸ 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. The Court found that subsidiary protection status had 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).

In 2021, 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.⁴³⁹

⁴³⁶ Migration Agency, *Rättsligt ställningstagande. Föresättningarna för att återkalla en skyddsstatusförklaring - RS/054/2021* (version 3.0), available in Swedish at: <https://bit.ly/3zyQytT>.

⁴³⁷ Migration Court of Appeal, MIG 2011:13, 13 June 2011, available at: <http://bit.ly/2n4FaA6>.

⁴³⁸ Migration Court of Appeal, MG 2021:14, 8 July 2021, available in Swedish at: <https://bit.ly/3R7zgwL>.

⁴³⁹ Swedish Refugee Law Center, *What happens when the need for protection ends?*, May 2021, available at: <https://bit.ly/3wz4zXj>.

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
4. 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, but 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.⁴⁴⁰ 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.⁴⁴¹

According to a political agreement in October 2022 between the new Government political parties and the Sweden Democrats party the Migration Agency shall give priority to cases regarding withdrawal of residence permit. A new governmental inquiry will examine and propose how residence permits may be withdrawn to a greater extent.⁴⁴² In 2022, 296 cases regarding residence permits and 788 cases concerning citizenship were reported to the Swedish Security Service.⁴⁴³

In 2022, Sweden withdrew international protection status for 361 individuals (251 refugee status, 110 subsidiary protection status). The three most common nationalities regarding refugee status were Afghanistan (72), Iraq (29) and Iran (29), regarding subsidiary protection status the most common nationalities were Afghanistan (58), Syria (38) and Iraq (5).⁴⁴⁴

⁴⁴⁰ Chapter 4, Section 5 b, Aliens Act for refugee status and Chapter 4, Section 5 c, Aliens Act, for subsidiary protection status.

⁴⁴¹ Migration Agency, . Rättsligt ställningstagande. Förutsättningarna för att återkalla en skyddsstatusförklaring - RS/054/2021 (version 3.0) , available in Swedish at <https://bit.ly/3zyQytT>.

⁴⁴² Tidöavtalet (The Tidö Agreement), available online at: <https://bit.ly/3wuCh0t>, 39.

⁴⁴³ Migration Agency, *Annual Report 2022*, Dnr: 1.3.2-2023-2262, available in Swedish at: <http://bitly.ws/AUE8>, 121.

⁴⁴⁴ Information provided by the Migration Agency's statistical unit.

B. Family reunification

1. Criteria and conditions

Indicators: Family Reunification

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

1.1. Eligible beneficiaries and family members

As mentioned in [Residence Permit](#), the 2016 temporary law and then 2021 amendments to the Aliens Act 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.⁴⁴⁵ On 20 October 2022, the ECtHR ruled in the case *M.T. and Others v. Sweden* and found that in that particular case the restrictions in the right to family reunification for the applicants concerned, where the person in Sweden was a beneficiary of subsidiary protection, did not breach Article 8 of the ECHR or Article 14 in conjunction with Article 8.⁴⁴⁶

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 2019, only refugees had the right to be reunited with their nuclear family. However, the extension of the Temporary Law in 2019 removed the ban on family reunification for beneficiaries of the subsidiary protection which is now available to both. This was mainly the result of litigation efforts and a Migration Court of Appeal ruling where the denial of family reunification for a young Syrian child was considered 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).⁴⁴⁷

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.⁴⁴⁸ 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.

With the cessation of the Temporary law and the changes introduced in the Aliens Act in 2021, the following persons are eligible for family reunification:

- ❖ Husband, wife, registered partner or cohabiting partner over 18 years;
- ❖ Children under the age of 18 years at the time of application;
- ❖ Parents to a child with protection status.

⁴⁴⁵ For further details see AIDA, *Country Report Sweden, 2021 Update*, May 2022, available at: <https://bit.ly/3R31wRd>, 101.

⁴⁴⁶ ECtHR, *M.T. and Others v. Sweden*, Application No 22105/18, 20 October 2022, available at: <http://bit.ly/42MqE3T>.

⁴⁴⁷ Migration Court of Appeal, MIG 2018:20, 13 November 2018, available in Swedish at: <http://bit.ly/3R5eAp0>.

⁴⁴⁸ 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.

- ❖ Other relatives and children over 18 years may be eligible to reunite with the sponsor in Sweden if a particular dependency exists

Beneficiaries of international protection who have a temporary resident permit must have a “well-founded” prospect of being granted a residence permit “for a longer time” in order to be entitled to family reunification.

If the person in Sweden has a permanent residence permit, family reunification can also take place with the person they plan to marry or cohabit with in Sweden, subject to income and housing requirements (see below). There is no difference in the law between the right to family reunification for heterosexual couples and for same-sex couples. In the case of a couple that has not lived together as partners at the time of application, residence permit may be granted if the relationship is considered serious.

In a precedent ruling,⁴⁴⁹ a case litigated by the Swedish Refugee Law Center, the Migration Court of Appeal found that when determining the age of the sponsor the relevant time should be the time of application of family reunification if the reference person is under 18 years when the application for family reunification is lodged. There shall be no condition that the application must be lodged within three months from the decision of residence permit for the reference person if the reference person is under 18 years at the time of application. The Migration Court of Appeal referred to the CJEU case C-133/19.⁴⁵⁰

In addition to this precedent ruling, it can be noted that the SMA issued a legal position in 2022 regarding the relevant time for determining the age of the applicant or the sponsor. According to the legal position, for a child who apply to a reunite with a parent in Sweden the relevant time is the time of application for family reunification, or, in cases when the application for family reunification is made within three months from when the parent was granted residence permit and protection status the relevant time is when the parent applied for asylum. For a parent who applies to reunite with a child in Sweden the relevant time for determining the age of the child/reference person is the time of application for family reunification, or, in cases when the child was under 18 years when applying for asylum but has turned 18 years at the time of application for family reunification, that child is still considered as a child if the application for family reunification was lodged within three months from the date the child was granted residence permit.⁴⁵¹

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.⁴⁵² 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 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. SMA confirmed this position again in June 2022.⁴⁵³

⁴⁴⁹ Migration Court of Appeal, Decision MIG 2022:11, 8 December 2022, available in Swedish at: <https://bit.ly/3WAhx2c>

⁴⁵⁰ CJEU, Case C-133/19, *B.M.M., B.S., B.M., B.M.O. v. Belgium*, 16 July 2020, available at: <http://bit.ly/3JQb0fs>.

⁴⁵¹ Migration Agency, *Rättsligt ställningstagande. Tidpunkt för bedömning av barns ålder i ärenden om uppehållstillstånd på grund av familjeanknytning* - RS/001/2022 (version 2.0), September 2022, in available in Swedish at: <http://bit.ly/3zckWuF>.

⁴⁵² Migration Court of Appeal, MIG 2018:4, UM-2630-17, 5 March 2018, available at: <https://bit.ly/3jOZ7Jf>.

⁴⁵³ Migration Agency, *Rättsligt ställningstagande. Afghanska medborgares möjligheter att skaffa pass* - RS/087/2021, 11 October 2021, available in Swedish at: <http://bit.ly/3JgWVJm>.

The SMA may issue a temporary alien's passport in cases where the applicant is granted residence permit but has no valid travel document.

DNA testing is offered by the SMA to applicants in cases where the biological relationship has not been sufficiently established. If it is evident that such relationship does not exist, or if the application will be rejected on other grounds DNA testing will not be offered. Costs for test taking, transport and analysis of tests are covered by the State. If DNA testing is not offered by SMA, the applicant may pay for and present a DNA analysis. The applicant can get reimbursed if the DNA analysis verifies the biological relationship and the residence permit is granted.⁴⁵⁴

1.2. Material requirements and procedure

With the changes in the Aliens Act that came into force 20 July 2021, some exceptions were introduced to the maintenance requirement. Everyone who wants to bring their family members to Sweden must be able to support both themselves and their family members and must have a domicile of sufficient standard and size. 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. Children are exempted from the maintenance requirement.

The income requirement is based on a standard amount for each member of the household that must be met after the rent/housing cost has been deducted. For 2022 the standard amount as from 1 July was:

- ❖ SEK 5,158/€ 457 for a single adult
- ❖ SEK 8,520/€ 756 for spouses or partners living together
- ❖ SEK 2,756/€ 244 for children aged 6 years or younger
- ❖ SEK 3,308/€ 293 for children aged 7 to 10 years
- ❖ SEK 3,860/€ 342 for children aged 11 to 14 years
- ❖ SEK 4,411/€ 391 for children aged 15 years or older

The sponsor should have an accommodation of sufficient size and standard. For two adults without children a home is big enough if it has a kitchen or kitchenette and at least one room. If children are going to live in the home, there must be more rooms. Two children can share a bedroom.⁴⁵⁵

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.

The procedure is initiated by the family members abroad, who are the applicants in this procedure, however it may be initiated by a representative in Sweden (the sponsor or someone else) provided they are given a Power of Attorney to do so. Applications are either handed in at a Swedish Embassy or Consulate that provide this service or made through the online application form of the Swedish Migration Agency.

For applications made by family members other than the spouse, partner or child of a BIP, there is an application fee of SEK 2,000 / EUR 180 per adult and SEK 1,000 / EUR 90 per child.

In 2022, a total of 39,286 applications for residence permits based on family ties were lodged (of which 30,098 were first time applications). The Migration Agency issued a total of 34,589 decisions (of which 27,048 were first time applications), out of which 50% of the first-time applications and 89% of the

⁴⁵⁴ Aliens Act Chapter 13 Section 15 and 16.

⁴⁵⁵ Migration Agency Regulation 2022:8, available in Swedish at: <https://bit.ly/3KaTKil>.

subsequent applications were approved. By the end of the year, a total of 38,102 family reunification applications were pending (of which 32,526 were first time applications). Across all instances, a total of 2,143 residence permits were granted in family reunification cases where the person in Sweden was a former asylum seeker.⁴⁵⁶

The average waiting time from application to decision was 382 days for first time applications, and 208 days for subsequent applications.⁴⁵⁷ According to the Aliens Ordinance Act, Chapter 4, Section 21 a, an application for family reunification shall, unless there are any particular reasons, be decided on within 9 months. According to the Administrative Procedure Act, Section 12, an applicant may in all applications to authorities at first instance request a decision if more than six months has passed since the application. The SMA must then within four weeks either decide on the case or take a separate decision to reject the request. A decision to reject such a request may be appealed to the Migration Court.

In case of a negative decision, applicants may submit an appeal before the Migration Court within three weeks of receiving the decision from the SMA.⁴⁵⁸

In November 2018, FARR published a critical report on the persisting challenges in family reunification procedures.⁴⁵⁹ 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.⁴⁶⁰ 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).⁴⁶¹ 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.⁴⁶² The procedure is still ongoing. In a decision in December 2022, the Swedish Parliamentary Ombudsman criticised the SMA for long delays in the handling of a number of cases.⁴⁶³

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.⁴⁶⁴ In 2022, 105 applications for subsidies were granted by the SMA. The budget for travel grants for relatives in 2022 was SEK 3,9 million, out of which SEK 2,1 million was spent.⁴⁶⁵ For family members of persons with subsidiary protection, during 2022 the Swedish Red Cross was able to assist 13 families (representing a total of 59 individuals) to reunite in Sweden.⁴⁶⁶

⁴⁵⁶ Migration Agency, *Monthly statistical report December 2021*.

⁴⁵⁷ Migration Agency, *Monthly statistical report December 2021*.

⁴⁵⁸ Aliens Act Chapter 14 section 3.

⁴⁵⁹ FARR, 'När lagen splittrar – En exempelsamling om striden för familjeåterförening' in Artikel 14 #3 2018, available in Swedish at: <https://bit.ly/3WEnbAn>.

⁴⁶⁰ Stockholms Stadsmission, Göteborgs Stadsmission and FARR, Complaint to the European Commission, available at: <http://bit.ly/2Fqclbp>, no longer available as of March 2023.

⁴⁶¹ European Commission, July infringements package: key decisions, available at: <https://bit.ly/2SEFyqs>.

⁴⁶² European Commission, December infringements package: key decisions, available at: <https://bit.ly/3LttbX4>.

⁴⁶³ Information provided by FARR via e-mail in January 2023. See also: <https://bit.ly/3nm4u8t>.

⁴⁶⁴ Förordning (1984:936) om bidrag till flyktingar för kostnader för anhörigas resor till Sverige.

⁴⁶⁵ Information provided by Migration Agency via e-mail in January 2023.

⁴⁶⁶ Information provided by the Swedish Red Cross via email in January 2023.

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. 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 (2006:97), supplemented by rules issued by the Migration Agency.

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 19,770 travel documents were issued in 2022.

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.. Similar to the travel documents issued to refugees an Aliens passport issued to a person granted subsidiary protection will be valid for all countries but the country the person has fled from. In 2022, a total of 16,396 Aliens 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 their 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 travel documents are normally issued for at most two years (Refugee Convention travel documents) or three years (Aliens passport). The travel documents cannot be extended. Unless the person is granted Swedish citizenship in the meantime (see [Naturalisation](#)) they will have to apply for a new travel document after the old one has expired.

Travel document applications are handled by the Swedish Migration Agency.

D. Housing

Indicators: Housing

- | | |
|--|-------------------------|
| 1. For how long are beneficiaries entitled to stay in reception centres? | 2 months ⁴⁶⁷ |
| 2. Number of beneficiaries staying in reception centres as of 31 December 2022 | 1,587 ⁴⁶⁸ |

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

⁴⁶⁷ 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>.

⁴⁶⁸ Migration Agency, *Monthly statistical report December 2022*, including year-end numbers, 29.

municipalities to receive those granted residence permits after the asylum procedure.⁴⁶⁹ 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.⁴⁷⁰ After that period the responsibility for providing support and housing falls on the municipality.⁴⁷¹ 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 2022, a total of 11,529 persons were assigned to be received in municipalities throughout Sweden after receiving a residence permit, including 4,993 who were resettled, 2,017 who had been staying in reception centres, 2,145 who had been residing in accommodation that they had arranged themselves and 1,647 relatives and 727 "other".⁴⁷²

The average time between the granting of a permit and being settled in a municipality was 62 days in 2022, up from 56 days in 2021, and just above the two-month deadline for leaving Migration Agency accommodation.⁴⁷³ A total of 1,587 beneficiaries with residence permits were living in Migration Agency accommodation at the end of 2022, up from 415 in 2021..⁴⁷⁴ This significant increase in the number of beneficiaries staying in Migration Agency accommodation is most likely due to the increase in number of persons being granted residence permits in asylum cases (in first instance: 3,742 in 2022, up from 3,3103 in 2021).⁴⁷⁵

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

Swedish municipalities are obliged by law to provide housing for persons granted protection or the right to stay on other grounds. This obligation lasts for two years only and after that there is no guaranteed housing and persons can be evicted. A court decision has confirmed that this is a correct interpretation of the law.⁴⁷⁶ 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

The EUAA reports that social orientation classes became obligatory in Sweden for all applicants as soon as possible after an application for asylum has been registered. The induction is now more comprehensive

⁴⁶⁹ Lag (2016:38) om mottagande av vissa nyanlända invandrare för bosättning, available at: <http://bit.ly/2mqkzq2>.

⁴⁷⁰ Section 10, Förordning (2016:39) om mottagande av vissa nyanlända invandrare för bosättning, available in Swedish at: <https://bit.ly/3bfdUXN>.

⁴⁷¹ Migration Agency, 'Bosättning i en kommun', available in Swedish at: <http://bit.ly/3XAPykg>.

⁴⁷² Migration Agency, *Monthly statistical report December 2022, including year-end numbers*, 31.

⁴⁷³ Migration Agency, *Monthly statistical report December 2022, including year-end numbers*, 33.

⁴⁷⁴ Migration Agency, *Monthly statistical report December 2022, including year-end numbers*, 29, and *Monthly statistical report December 2021*, 26.

⁴⁷⁵ Migration Agency, *Monthly statistical report December 2022, including year-end numbers*, 9, and *Monthly statistical report December 2021*.

⁴⁷⁶ Sabo, 'Ny dom ger kommun rätt att säga upp nyanländas hyreskontrakt', 5 April 2018, available in Swedish at: <https://bit.ly/2UwxmH2>

and delivered to all applicants over the age of 15 through two half-day sessions, while the material is adapted and in written for accompanied children and studied with the case officer for unaccompanied children. The sessions are organised in different languages in first reception centres or through videoconference for persons who have their own accommodation. The Swedish Migration Agency offers childcare while parents follow the course.⁴⁷⁷

When a person is granted a residence permit, they are entitled to an “Introduction Plan” to plan their 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 64.⁴⁷⁸

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, they 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.⁴⁷⁹

In 2022, the general unemployment rate decreased to 7,5%, compared to 8,8% in 2021.⁴⁸⁰ However, when it comes to individuals born abroad, it is higher. In the first quarter of 2021, the unemployment rate was 20% for this group.⁴⁸¹ In May 2022, it was reported that slightly more than 50% of refugees aged 20 to 64 were gainfully employed ten years after having received a residence permit and reception in a local municipality.⁴⁸²

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.⁴⁸³ There are requirements regarding proficiency in Swedish and English for higher education studies and other more specific requirements regarding proficiency in other subjects relevant to the course of studies. Fulfilling these requirements can take time and therefore add to the time it takes to obtain full qualifications.

Higher education is financed by student loans with partial grants. A person with a degree or qualifications from another country can, free of charge, apply for an evaluation and recognition of qualifications by the

⁴⁷⁷ EUAA, *Asylum Report 2022: Annual Report on the Situation of Asylum in the European Union*, June 2022, available at: <http://bitly.ws/AUaD>, 171-172.

⁴⁷⁸ Migration Agency, ‘Bosättning i en kommun’, 20 January 2017, available in Swedish at: <http://bit.ly/3XAPykg>

⁴⁷⁹ FRA, *Migration: Key Fundamental Rights Concerns*, November 2020, available at: <https://bit.ly/3aM2e0b>, 7.

⁴⁸⁰ Government Statistics Sweden, 28 February 2023, available in Swedish at: <https://bit.ly/3G16xoX>.

⁴⁸¹ Government Statistics Sweden, 28 February 2023, available in Swedish at: <https://bit.ly/3G16xoX>.

⁴⁸² SVT, ‘Mer än var tionde utrikesfödd person är arbetslös – gapet mellan grupperna ökar’, 23 May 2022, available in Swedish at: <http://bit.ly/3LXUFYH>.

⁴⁸³ Centrala studiestödsnämnden, *Refugee – support from CSN*, available at: <https://bit.ly/2Zio06v>.

Swedish Council for Higher Education in order to provide support for finding work, or enable their continued studies in Sweden.⁴⁸⁴ Some universities offer fast track courses for those already possessing higher education degrees.⁴⁸⁵

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”.⁴⁸⁶ 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.⁴⁸⁷

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 since a prerequisite for the right to social welfare is such registration.

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.

Today a person has the right to a publicly financed interpreter when in contact with the health care. The new Swedish government has proposed that Swedish citizens and persons with a residence permit should pay for an interpreter themselves. Critics point out this risks to lead to situations where the health staff cannot fulfil their obligations to give the right health care needed.⁴⁸⁸

⁴⁸⁴ Swedish Council for Higher Education, available at <https://bit.ly/3LmbEQB>.

⁴⁸⁵ See e.g. Linköping University, *Utbildningsutbud på LiU, kompletteringsmöjligheter och snabbspår*, available in Swedish at: <https://bit.ly/39zzdVK>.

⁴⁸⁶ Lag (2010:197) om etableringsinsatser för vissa nyanlända invandrare.

⁴⁸⁷ Socialtjänstlag (2001:453) Svensk författningssamling. See also Socialstyrelsen, *Social assistance*, available at: <https://bit.ly/3u05Wwb>.

⁴⁸⁸ STRÖM M., ‘Nya sjukvårdsministern: Att ta bort tolkstöd skulle strida mot flera lagar’, 24 October 2022, available in Swedish at: <http://bit.ly/3WD5LE0>.

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)