

Country Report: Sweden



2019
Update

Acknowledgements & Methodology

This report was prepared by Martin Nyman and Peter Varga of the Swedish Refugee Law Center, and edited by ECRE. The first report and first three updates were compiled by George Joseph, Director of National and Migration Department, Caritas Sweden and Michael Williams of the Swedish Network of Refugee Support Groups (FARR), and edited by ECRE. The 2016, 2017 and 2018 updates were prepared by Michael Williams of FARR and Lisa Hallstedt.

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 authors 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 2019, unless otherwise stated.

The Asylum Information Database (AIDA)

The Asylum Information Database (AIDA) is coordinated by the European Council on Refugees and Exiles (ECRE). It aims to provide up-to date information on asylum practice in 23 countries. This includes 19 EU Member States (AT, BE, BG, CY, DE, ES, FR, GR, HR, HU, IE, IT, MT, NL, PL, PT, RO, SE, SI) and 4 non-EU countries (Serbia, Switzerland, Turkey, United Kingdom) which is accessible to researchers, advocates, legal practitioners and the general public through the dedicated website www.asylumineurope.org. The database also seeks to promote the implementation and transposition of EU asylum legislation reflecting the highest possible standards of protection in line with international refugee and human rights law and based on best practice.



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Glossary & List of Abbreviations

AMIF	Asylum, Migration and Integration Fund
CJEU	Court of Justice of the European Union
CPT	Council of Europe Committee on the Prevention of Torture
CSN	Centrala studiestödsnämnden
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
ERF	European Refugee Fund
FARR	Swedish Network of Refugee Support Groups Flyktinggruppernas Riksråd
JO	Parliamentary Ombudsman
JK	Chancellor of Justice
LGBTQI	Lesbian, gay, bisexual, transsexual, queer and intersex
LMA	Law on the Reception of Asylum Seekers
LTB	Temporary Law Lag om tillfällig begränsning
NPM	National Preventive Mechanism
RFSL	Swedish Federation for Lesbian, Gay, Bisexual, Transgender, Queer and Intersex rights
RMV	National Board of Forensic Medicine Rättsmedicinalverket
SKL	Swedish Association of Local Authorities and Regions Sveriges Kommuner och Landsting
UNHCR	United Nations High Commissioner for Refugees
UNRWA	United Nations Relief and Works Agency

Statistics

Overview of statistical practice

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

Applications and granting of protection status at first instance: 2019

	Applicants in 2019	Decisions in 2019	Pending at end 2019	Refugee status	Subsidiary protection	Humanitarian protection	Rejection	Refugee rate	Subs. Prot. rate	Hum. Prot. rate	Rejection rate
Total	21,984	24,569	14,880	3,487	5,955	104	14,829	14.1%	24.2%	0.42%	60.3%

Breakdown by countries of origin of the total numbers

Syria	2,655	2,713	1,553	210	1710	2	519	7.7%	63.0%	0.07%	19.3%
Iran	1,093	1,347	1,259	404	2	5	902	29.9%	0.15%	0.37%	66.9%
Iraq	1,055	1,712	997	165	63	11	1,378	9.6%	3.6%	0.64 %	80.4%
Uzbekistan	1,052	486	1,233	12	0	0	275	2.4%	0%	0%	56.6%
Georgia	975	1,161	182	1	0	0	1,158	0.1%	0%	0%	99.9%
Stateless	879	1,103	555	298	112	4	555	27%	10.1%	0.36%	50.3%
Ukraine	868	844	255	4	0	0	829	0.47%	0%	0%	98.2%
Afghanistan	826	1,331	742	281	57	24	721	21.1%	4.2%	1.8%	54.1%
Eritrea	766	975	369	631	24	1	242	64.7%	2.4%	0.1%	24.8%
Somalia	755	937	563	196	3	4	607	20.9%	0.3%	0.4%	64.7%

Source: Migration Agency. Note that the humanitarian protection rates do not include permits that have been granted on other grounds such as upper secondary school. The remaining percentage of the protection rates thus refer to these other permits.

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

Gender/age breakdown of the total number of applicants: 2019

	Number	Percentage
Total number of applicants	21,984	-
Men	13,147	59.8%
Women	8,837	40.2%
Children (unaccompanied minors not included)	5,556	25,2%
Unaccompanied children	905	4,1%

Source: Migration Agency

Comparison between first instance and appeal decision rates: 2019

	First instance		Appeal	
	Number	Percentage	Number	Percentage
Total number of decisions	24,569	-	17,144	-
Positive decisions	9,546	38.8%	3910	22.8%
• <i>Refugee status</i>	3,487	14.9%	1,674	9.7%
• <i>Subsidiary protection</i>	5,955	24.4%	2,038	11.8%
• <i>Humanitarian protection</i>	104	0.42%	198*	1.1%*
Negative decisions	14,829	60.3%	12,600	73.5%*

Source: Migration Agency. *Humanitarian protection" statistics does not include permits for secondary school studies.

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

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

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

Overview of the main changes since the previous report update

The report was previously updated in **April 2019**.

Covid 19 related measures

Please note that this report has largely been written prior to the outbreak of COVID-19 in Sweden. Subsequently measures have been taken which have an impact on the situation of asylum seekers and beneficiaries of international protection. These measures do not figure in this AIDA report. This box presents some of the main measures:

- ❖ **Asylum procedure:** The possibility to apply for asylum has been maintained, although many asylum interviews have been postponed.
- ❖ **Access to reception:** Access to reception has been maintained.
- ❖ **Return:** Many returns, especially forced returns, have been difficult to carry out. Persons who are visiting Sweden but who cannot return because of cancelled flights or temporary border closures can obtain a 90 day extension of their permits.
- ❖ **Resettlement:** All resettlement procedures have been postponed

Public information on the situation and health advice has been published in several languages on the websites of governmental agencies, such as the Public Health Agency of Sweden, the Swedish Civil Contingencies Agency and the Swedish Migration Agency.²

Asylum procedure

- ❖ **Length of procedure:** The average processing times at first instance significantly decreased in 2019. It took on average 288 days (i.e. 9.6 months) compared to 507 days (i.e. 16.9 months) in 2018. This is mainly due to the significant decrease in the number of applications for international protection and pending cases in the last years.
- ❖ **Age assessments:** Age assessment procedures and the methods used in their context continue to be heavily criticised both by civil society organisations and medical experts. In May 2019, the Swedish Refugee Law Center and Civil Rights Defenders brought a case of a wrongful age assessment of an unaccompanied child and the violation of its rights before the Chancellor of Justice (*Justitiekanslern*). The case was rejected as the result of the age assessment conducted by the National Board of Forensic Medicine (*Rättsmedicinalverket*, RMV) indicated his majority. However, a second assessment conducted by private medical experts as well as several personal documents seemed to support the boy's claim of being a minor.³
- ❖ **Subsequent applications:** In order to be able to lodge a subsequent application, Swedish law foresees that "a valid reason" must be provided for not having presented new circumstances at an earlier stage of the procedure.⁴ However, the Migration Court of Appeal clarified on 10 April 2019 that, if there are reasonable grounds to assume that a foreigner would be in danger of death, corporal

² Public Health Agency of Sweden: <https://bit.ly/2L7MpVf>, Swedish Civil Contingencies Agency: <https://bit.ly/3caLHTg>, Swedish Migration Agency: <https://bit.ly/2SGbOJP>.

³ ECRE, 'Sweden: Case against the State on Medical Age Assessment Before Chancellor of Justice', 10 May 2019, available at: <https://bit.ly/3aJJ7Sx>.

⁴ Chapter 12 Section 19 of the Aliens Act

punishment, torture or other inhuman or degrading treatment or punishment upon return to the relevant country, it is not required that the applicant shows a valid reason in order for a subsequent application to be admitted.⁵

- ❖ **Safe country of origin:** The safe country of origin concept is not applicable in Sweden. However, on 19 June 2019, the government initiated an investigation regarding the possibility to introduce a list of safe countries of origin. A government memorandum was published on 30 January 2020, which outlines the legislative changes necessary to that end.⁶ The government has expressed as a goal to implement the required legislative changes during the fall of 2020.

Reception conditions

- ❖ **Limitation to the right to private housing:** On 1 January 2020, a new provision came into force which limits the right of asylum seekers to choose the place of residence during the asylum procedure.⁷ It foresees that asylum seekers can lose their right to a daily allowance if they independently decide to secure private housing and if the latter is located in a part of a municipality which - at the time of moving in and during the time the asylum seeker resides in it - is considered to face social and economic challenges. The government may issue instructions on which parts of a municipality that are to be considered as such. However, this provision does not apply to cases where it is obviously unreasonable to withhold economic assistance.

Detention of asylum seekers

- ❖ **Length of detention:** On 22 October 2019, the Migration Court of Appeal delivered a ruling in which it clarified that twelve months is the maximum time an alien may be held in detention for the purpose of enforcement of a removal order.⁸
- ❖ **New detention centre:** A new detention centre was opened in **Ljungbyhed** in southern Sweden. There is now a total of six detention centres in the country, with a total of nine units and an overall capacity of 528 persons.

Content of international protection

- ❖ **Length of residence permits:** On 18 June 2019, the Swedish Parliament (*Riksdag*) extended the Temporary Law on residence permits until July 2021.⁹ The law, voted in July 2016, foresees reduced standards for individuals who have lodged an application for international protection since 24 November 2015. This means *inter alia* that beneficiaries granted refugee status and subsidiary protection will continue to receive residence permits valid for 3 years and 13 months respectively, rather than permanent residence permits.
- ❖ **Permanent residence permits for stateless persons:** The extension of the Temporary Law includes a provision which allows for a permanent residence permit to be issued to a foreigner who was born in Sweden and who has been stateless since birth.

⁵ Migration Court of Appeal, UM 12194-18, MIG 2019:5, 10 April 2019, available at: <https://bit.ly/2XBNzg0>.

⁶ Ministry of Justice and Migration, Uppenbart ogrundade ansökningar och fastställande av säkra ursprungsländer Ds 2020:2, 30 January 2020, available in Swedish at: <https://bit.ly/3b4MpkN>.

⁷ Section 10 a, Law on Reception of Asylum Seekers and Others.

⁸ Migration Court of Appeal, MIG 2019:17.

⁹ Swedish Riskdag, Extension of the law on temporary restrictions on the possibility of obtaining a residence permit in Sweden - Social Insurance Committee 2018/19: Sfu26, 18 June 2019, available in Swedish at: <https://bit.ly/34ltaAw>.

- ❖ **Family Reunification:** The extension of the Temporary Law has removed the ban on family reunification for beneficiaries of the subsidiary protection. This is mainly the result of litigation efforts and the fact that the Migration Court of Appeal ruled in a case that the denial of family reunification to a young Syrian child was in breach of Article 8 of the European Convention on Human Rights (ECHR) and Articles 3, 9 and 10 of the United Nations Convention on the Rights of the child (CRC).¹⁰ The adopted provision grants the right to family reunification to subsidiary protection status holders who have well-founded (“reasonable”) prospects of being granted a permanent residence permit.¹¹
- ❖ **Infringement procedure:** Following a complaint filed in 2018 by FARR and the Stockholm City Mission regarding Sweden’s violation of the applicable time limits to process applications for family reunification, the European Commission (EC) launched an infringement procedure through its letter of formal notice of 17 July 2019.¹² According to information provided by the EC in February 2020, it is currently examining the response of the Swedish authorities to the letter of formal notice. The EC further stated that discussions are ongoing with the relevant Swedish authorities on several matters, including delays for processing applications for work and granting residence permits. The Swedish authorities are reportedly working towards improving these procedures and reducing the processing times.
- ❖ **Future reform of Temporary Law:** On 14 June 2019, the Swedish Government established a Parliamentary Committee of Inquiry with the aim to draft proposals for Sweden’s future migration policies.¹³ The Committee will look in particular into whether persons granted asylum should be issued temporary or permanent residence permits, the length of temporary permits (if temporary permits are proposed) and under which conditions permanent permits can be issued. The Committee will also consider whether a new ground for protection on humanitarian grounds should be introduced, who should be entitled to family reunification and if a maintenance requirement should be used and, if so, what it should entail. In addition, the Committee is also tasked with examining the rules applicable in other European Union (EU) Member States and assessing which possible pull-factors contribute to persons applying for asylum in Sweden. The Committee is expected to submit its conclusions to the Government on 20 August 2020.

¹⁰ Migration Court of Appeal, MIG 2018:20.

¹¹ Law on temporary restrictions on the possibility of obtaining a residence permit in Sweden, Section 6.

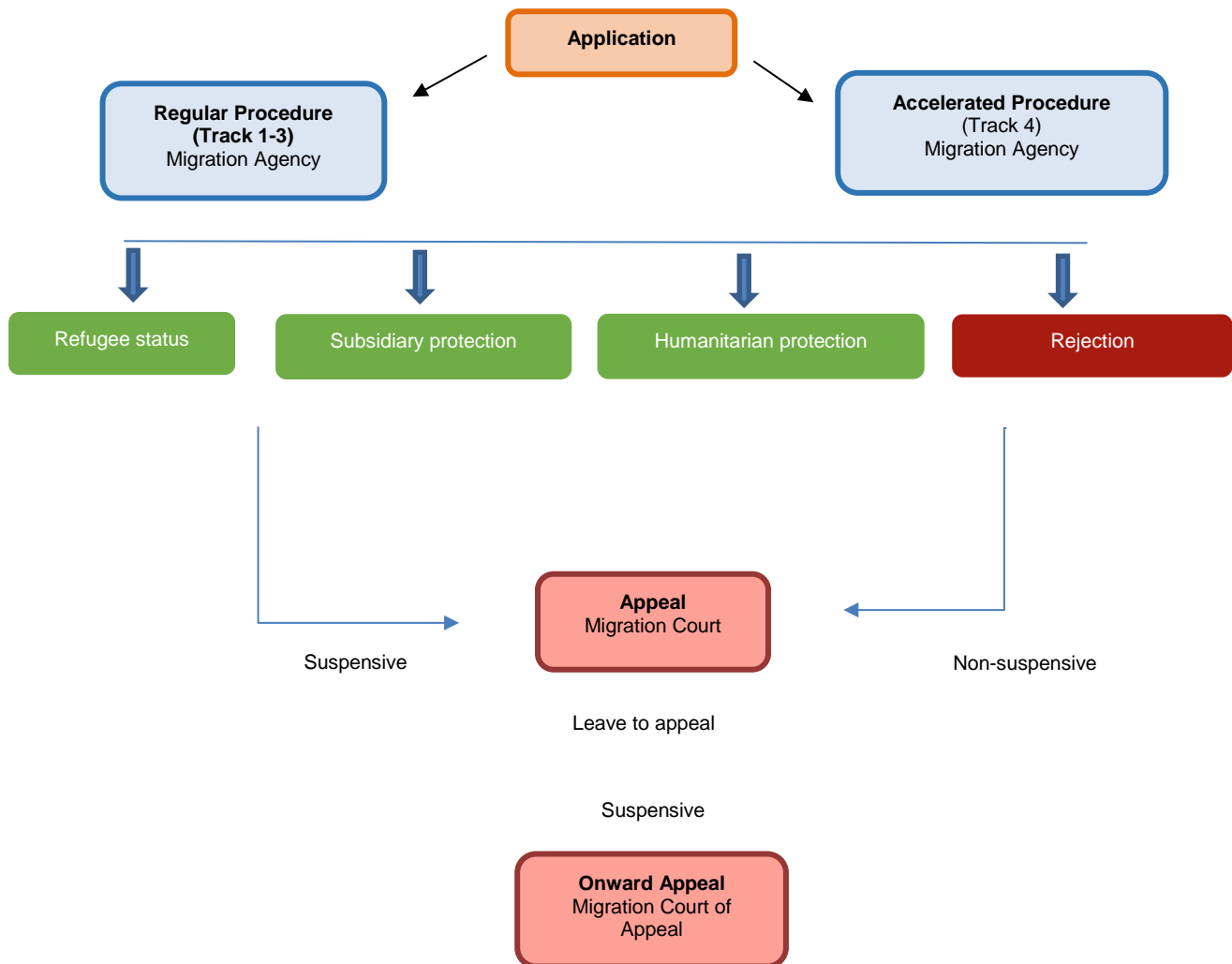
¹² European Commission, July infringements package: key decisions: <https://bit.ly/2SEFYqs>.

¹³ Government of Sweden, *Parlamentarisk kommitté ska utreda migrationspolitiken*, available in Swedish at: <https://bit.ly/3fpADDJ>.

Asylum Procedure

A. General

1. Flow chart



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

2. Types of procedures

Indicators: Types of Procedures

Which types of procedures exist in your country?

- | | | |
|--|---|--|
| ❖ Regular procedure: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ▪ Prioritised examination: ¹⁴ | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ▪ Fast-track processing: ¹⁵ | <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: ¹⁶ | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ Other: | | |

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

☐ Yes ☒ No

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

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

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

4. Determining authority

Name in English	Number of staff (31 December 2019)	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	6,187	Ministry of Justice	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

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

The administrative system in Sweden differs other European countries in terms of division of tasks. All government decisions in Sweden are collective and all public agencies are subordinate to - but

¹⁴ For applications likely to be well-founded or made by vulnerable applicants. See Article 31(7) recast Asylum Procedures Directive.

¹⁵ Accelerating the processing of specific caseloads as part of the regular procedure.

¹⁶ Labelled as "accelerated procedure" in national law. See Article 31(8) recast Asylum Procedures Directive.

independent from - the government. Unlike in other countries, Swedish Secretaries of State, or ministers, have limited discretion to take independent decisions. All government decisions are taken jointly by the Government. Different Secretaries of State are responsible for different areas and may also act as heads of ministries. Some tasks performed by ministries in other countries are performed by civil service departments in Sweden, which are overseen by a ministry.

As a general rule, the Ministry of Justice and other Government Offices cannot intervene in individual cases concerning applicants for international protection. However, in cases concerning serious threats to national security, the Act concerning Special Controls in Respect of Aliens may be used (1991:572).¹⁷ According to Section 2, the latter Act becomes applicable upon request of the Swedish Security Service. An expulsion decision is, however, always issued by the Migration Agency at first instance. According to Section 2 (a) of the Act, the Migration Agency's decision can be appealed to the Government.

According to Section 3 of the Act, an appeal of an expulsion decision issued by the Migration Agency shall be handed over to the Migration Court of Appeal, who shall submit an opinion of the merits in the case, and thereafter hand the case over to the government for a final decision. In its submission, the Migration Court of Appeal should address whether there are impediments in accordance with Chapter 12 Section 1-2 of the Swedish Alien's Act [*non-refoulment*] against the enforcement of the expulsion decision. If the Migration Court of Appeal considers that there are such impediments, the Government cannot deviate from that assessment. Since 2012, the Act concerning Special Controls in Respect of Aliens has been used in 17 cases.¹⁸

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

The Migration Agency is subordinate to the Government as a whole and reports to the Ministry of Justice, with which it cooperates at various levels. According to Swedish legislation, the Migration Agency, as is the case with all authorities, is fully independent from the Government as well as the Parliament in relation to individual decisions and the Government is prohibited from influencing its decisions.¹⁹ This also applies to the Agency's policy on different topics. The Migration Agency coordinates and divides tasks between the divisions of Asylum, Managed Migration and Citizenship, thereby upholding due process and ensuring effective case management in line with Sweden's Alien and Citizenship Act. The Migration Agency is also responsible for aliens without residence permits, i.e. until they obtain a permit and have settled in a municipality. Legal provisions pertaining to the Migration Agency are found primarily in the 2005 Aliens Act and the 2019 Ordinance with Instructions for the Migration Agency.

The Migration Agency is headed by a Director General, who is appointed by the government. The Migration Agency consists of a management team, a government agency and eight departments that provide support to the core tasks. The departments are: the digitisation and development department, the planning department, the national coordination department, the legal department, the international department, the communications department, the human resources department and the business support department. The head office is located in **Norrköping**.²⁰

Stand-alone functions are the internal audit, the supervisory unit and the agency's fund management, which all report directly to the director-general. There is also a dedicated unit to Dublin procedures and a

¹⁷ Act concerning Special Controls in Respect of Aliens, available in Swedish at: <https://bit.ly/3bafx94>.

¹⁸ This includes: 1 case in 2012/2013; two cases in 2013/2014; 1 case in 2014/2015; 7 cases in 2015/2016; 4 cases in 2016/2017 and two cases in 2017/2018. See: Government, regeringens skrivelse 2019/20:62, 2019 års redogörelse för tillämpningen av lagen om särskild utlänningskontroll. 11 December 2019, available in Swedish at: <https://bit.ly/38veSy9>.

¹⁹ Instrument of Government, Ch. 12, Section 2, available in Swedish at: <https://bit.ly/3ccbSJ7>.

²⁰ The Migration Agency, <https://bit.ly/36J6v0H>.

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

The Migration Agency works with quality control and assurance on a regular basis and in different ways. The overall goal of quality assurance is to ensure that all decisions that have been taken are formally and materially correct, as well as to ensure a uniform application of the law and case management based on current legislation and the applicant's individual circumstances. The Migration Agency has a number of mandatory indicators within the framework of quality follow-ups that should always be considered within a quality framework assessment, especially processing times. These quality indicators cover the following aspects: ²¹

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

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

²¹ The Migration Agency, Kvalitetsuppföljningar av rättslig kvalitet i Migrationsverkets processer, RC A - 04/2019.

Migration Agency regional divisions

2019-01-24

Legend

- Regional capital
- Detention
- Administrative judicial procedure
- Unit
- National service center
- Branch office with limited service

Division of counties in the regions

Region South:

Skåne län Blekinge
län Kronobergs län
Kalmar län

Region West:

Hallands län Västra
Götalands län

Region East:

Jönköpings län
Östergötlands län
Södermanlands län

Region Stockholm:

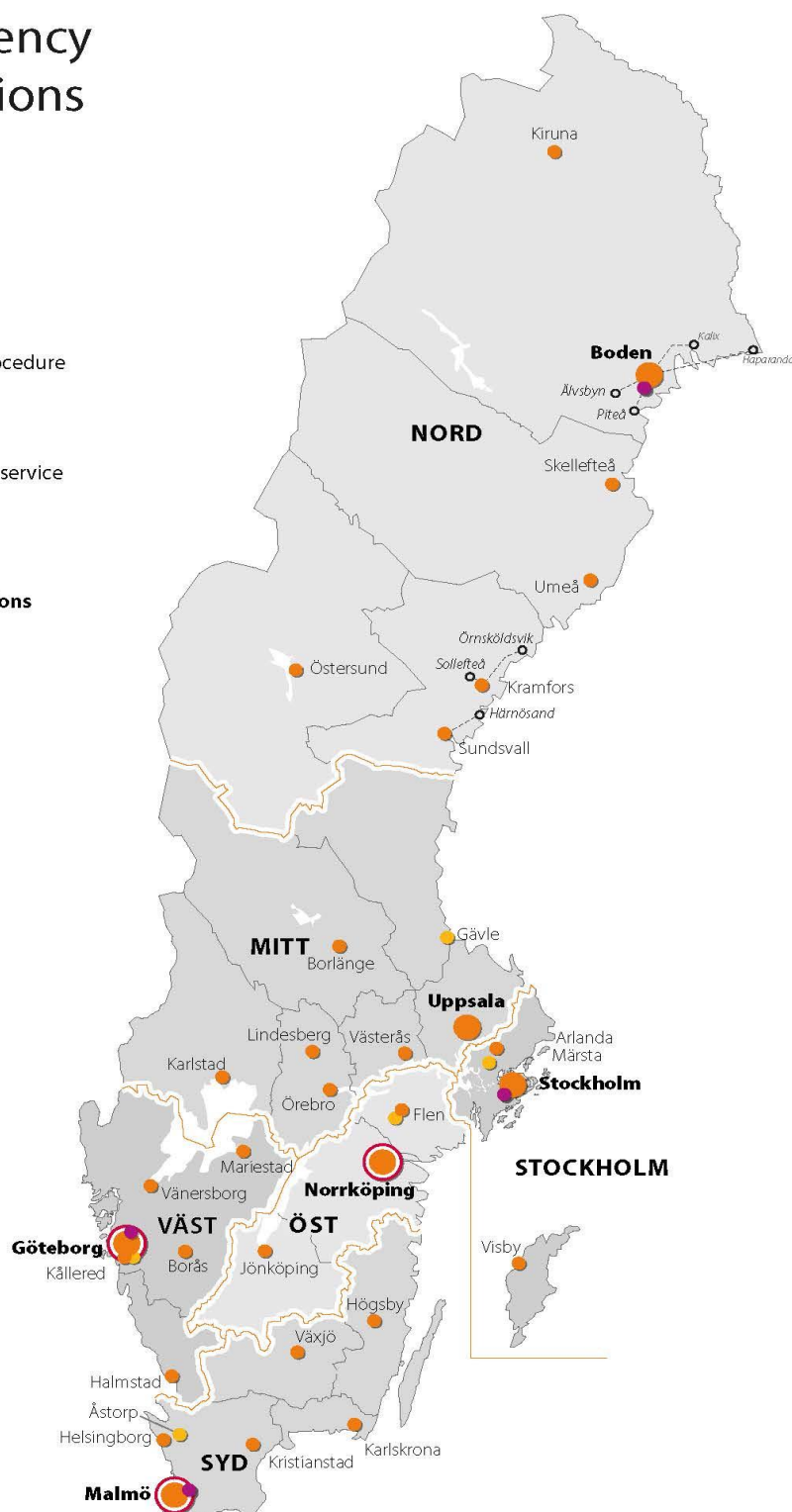
Stockholms län
Gotlands län

Region Middle:

Dalarnas län
Gävleborgs län
Värmlands län
Uppsala län Örebro
län Västmanlands
län

Region North:

Jämtlands län
Västernorrlands län
Västerbottens län
Norrbottens län



The Migration Agency had 6,187 employees by the end of 2019. The average age was 40 for women and 42 for men. 33 % of the work force had been employed less than five years. The average period of employment was 8.1 years. 91% were full-time staff.²³ Out of the total number of employees, 902 were working with asylum applications, out of which 263 were decision makers.²⁴

The Migration Courts have changed the decision of the Migration Agency in 17 % of cases and a further 12% of cases were remitted. The increase in decisions being changed by Migration Courts (17% in 2019 compared to 12% in 2018) is primarily the result of a legislative change introduced in 2018 expanding the scope of persons eligible for a residence permit for studies at upper secondary school level according to the Migration Agency. The latter carried out internal evaluations of selected processes, including Resettlement, Dublin and Financial Support. The conclusions of these internal evaluations were that almost all of the cases examined had been assessed appropriately and that the correct decision had been made.²⁵

The Migration Agency was criticised for underreporting suspects of war crimes and has increased its reporting of suspected war crimes to the police from 52 cases in 2017 to 135 in 2018.²⁶ In 2019, the Migration Agency reported 123 suspected war crimes to the police.²⁷

5. Short overview of the asylum procedure

During the processing and examination of applications for international protection, the asylum seeker is covered by the 1994 Reception of Asylum Seekers and Others Act, which is applied by the Migration Agency.

Once a decision has been reached in relation to a specific asylum application, two scenarios are possible:

- In case the application was successful, the Migration Agency Reception Unit is responsible for the facilitation of the asylum seeker's settlement in a municipality in cooperation with the respective municipality;
- Where the application is, however, unsuccessful or a residence permit was refused, the asylum seeker will be returned to the country of origin.

Sweden has an asylum procedure where first instance decisions are taken in an administrative procedure by the Migration Agency, and appeals are dealt with an adversarial basis at two levels in the administrative courts. A first appeal may be lodged before the Migration Court. There are currently four Migration Courts, which are special divisions of the County Administrative Courts (*Förvaltningsrätten*) in **Stockholm**, **Gothenburg**, **Luleå** and **Malmö**.

There is a further possibility to appeal before the Migration Court of Appeal (*Migrationsöverdomstolen*), to which leave to appeal must be requested. The Migration Court of Appeal is a section of the Administrative Court of Appeal in **Stockholm** (*Kammarrätten i Stockholm*). For other administrative cases, the highest court of appeal is the Supreme Administrative Court (*Högsta förvaltningsdomstolen*). The Supreme (Civil and Criminal) Court does not deal specifically with asylum claims but hands down decisions in appealed cases on whether it is safe to return persons condemned with a crime to their home country.

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

²³ Migration Agency, *Annual Report 2019*, 19 February 2020, available in Swedish at: <http://bit.ly/382Zbh6>, 133.

²⁴ Information from The Migration Agency in January 2019.

²⁵ Migration Agency, *Annual Report 2019*, 19 February 2020, available in Swedish at: <http://bit.ly/382Zbh6>, 85.

²⁶ Migration Agency, 'Reports of suspected war crimes are increasing', 28 March 2019, available at: <https://bit.ly/2vjtnJY>.

²⁷ Information from The Migration Agency in January 2019.

new way of organising the flow of cases during 2016, which was updated in 2018, in response to a government order to shorten processing times.²⁸ The Migration Agency states that the protection process consists of three parts: (1) initial, (2) appeal and (3) enforcement processes. It runs from the application for asylum to the decision being enforced either by settlement or return.

During the initial process, cases are screened and sorted in different tracks based on their specific profile.²⁹ Manifestly unfounded applications, Dublin cases and cases with a high percentage of rejections go directly to the units that can quickly handle these cases. Other cases are forwarded to the Distribution Unit. There is no oral procedure at this stage for this category, but other procedural measures and screening are carried out. The different tracks provide guidance on how extensive an investigation is required in an individual case and thus create an efficient flow. A steady flow of cases during the determination process is assured when units request cases from the Distribution Unit. Accommodation is offered based on the nature of a case and the ambition is to avoid unnecessary secondary movements. Consideration is given to individual needs. All information and case handling measures under the protection assessment are adapted to the track concerned.

Track 1 Presumed positive outcome

Track 1 categorises cases where the presumption is that the case will be successful. The aim is to create preconditions for rapid settlement for persons who are likely to stay in Sweden.

Track 2 Presumed negative outcome

Track 2 categorises cases where there is no presumption of approval. The aim of track 2 is to deal with cases where the outcome of the case is unclear.

Track 3 Delayed case processing

In track 3 cases are categorised where the handling time will extend more than 6 months because of the complexities of the case. The aim of category 3 is to deal with cases with delayed processing.

Track 4A **Accelerated Procedure:** In track 4A cases are categorised based on a presumption that the application will be refused and expulsion take place with immediate effect or where the applicant is an EU citizen. The purpose of Track 4A is for persons with no asylum grounds to stay as short time as possible in the reception system.

Track 4B In track 4B cases are categorised based on an applicant coming from a country with a high rejection rate where a rapid assessment procedure is possible and return feasible. The purpose of track 4B is for persons in this category to remain as short a time as possible in the reception system.

Track 5A Cases to be dealt with under the [Dublin Regulation](#).

Track 5B **Admissibility Procedure:** Track 5B concerns cases which can be refused because the applicant has been granted protection in another EU Member State or in Norway, Switzerland, Iceland or Liechtenstein.

Track 5C Cases where an applicant can be refused because protection status has been granted in another country which is neither an EU Member State nor Norway, Switzerland, Iceland or Liechtenstein. This track is also used for cases where the applicant can be sent to a safe third country.

²⁸ See Swedish National Financial Management Authority, Regleringsbrev för budgetåret 2016 avseende Migrationsverket, 17 December 2015, available in Swedish at: <http://goo.gl/Kvt5rD>.

²⁹ Migration Agency, Standard för Spårindelning i skyddsprocessen, I-24a/2018, 1 October 2018.

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

Free legal aid at first instance is granted in all asylum cases in the regular procedure. The applicant can request a specific lawyer on the list administered by the Migration Agency and this choice must be respected even if the lawyer is located at a distance or is not available at the preferred time of the Migration Agency for an interview.³⁰ However, in most cases, it is the Migration Agency that designates legal counsel. Interpreters are available at all stages of the procedure. There is always an oral interview at the Migration Agency, whereas at the Migration Court and the Court of Appeal level an oral hearing is not mandatory but can take place on request if it facilitates decision-making or is determined necessary in accordance with current practice as determined by the Migration Court of Appeal. In cases where the Migration Agency has denied an application for international protection with reference to the reliability of the provided information or the applicant's credibility, there is very little room for the Migration Court to deny the applicant an oral hearing, if it's requested.³¹

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.³² At the appeal stage, a request for legal assistance can be made but will not automatically be approved, especially if the court deems that an appeal is unlikely to be successful.³³ However, appeals against decisions in the Dublin procedure have suspensive effect.

Some NGOs offer limited legal assistance in Dublin cases. Assistance can be provided in making appeals which are submitted in the name of the applicant. Asylum seekers are also informed by some NGOs on the right to lodge appeals themselves and make submissions in their own language. It is only since the implementation of the Dublin III Regulation that regular refugee and asylum lawyers have been appointed in Dublin cases.

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

The appeal before the Migration Court has suspensive effect, except for appeals lodged against decisions rejecting a "manifestly unfounded" application in the accelerated procedure under "Track 4". In such cases, suspensive effect must be requested by the appellant. The Migration Court sits with only one judge in simpler cases but for other cases the judge is joined by three lay judges selected from among their

³⁰ Migration Court of Appeal, Decision MIG 2017:21, UM8311-17, 14 November 2017, available in Swedish at: <http://bit.ly/2sgVeWj>.

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>.

³² ECtHR, *M.S.S. v. Belgium and Greece*, Application No 30696/09, Judgment of 21 January 2011; ECtHR, *Tarakhel v. Switzerland*, Application No 29217/12, Judgment of 4 November 2014.

³³ Migration Court of Appeal, UM 5998-14; UM 3055-14, 19 December 2014.

members by the parliamentary parties sitting in the county council of the region where the court is located. They have no special legal training and represent the general public. They have varying backgrounds from many different sectors. They sit for four years. If there is a tied vote it is the opinion of the judge that decides the outcome.

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

The applicant or the Migration Agency have three weeks from the date of the Migration Court's decision to request leave to appeal to the Migration Court of Appeal, when there has been an oral hearing in Court, or from the date the applicant's legal representative received the decision. Leave to appeal is granted if "it is of importance for the guidance of the application of the law that the appeal is examined by the Migration Court of Appeal or there are other exceptional grounds for examining the appeal."³⁴ Such exceptional reasons can exist where the Migration Agency has made a serious procedural error. Free legal aid is provided for making an application for leave to appeal. If leave is granted, further legal aid is provided.

The Migration Court of Appeal is the main national source of precedent in the Swedish asylum system. Decisions by the Migration Courts are not deemed to have any special precedent-creating status, even though they may contain important legal reasoning. However, since only the Migration Court in **Stockholm** deals with Dublin appeals, its position on returns to certain EU countries where there are grounds to believe that due process cannot be ensured can entail a temporary halt in returns until a decision has been made by the Migration Court of Appeal on the matter.

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

Decisions of the Migration Court of Appeal are final and non-appealable. When the Migration Court of Appeal hands down its decision, the expulsion order is enforceable and the rejected applicant is expected to leave Sweden voluntarily within four weeks (two weeks for manifestly unfounded claims). In exceptional circumstances regarding threats to society, the time limit can be even shorter.

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

³⁴ Ch. 16, Section 12 Aliens Act.

B. Access to the territory and registration

1. Access to the territory and push backs

Indicators: Access to the Territory

1. Are there any reports (NGO reports, media, testimonies, etc.) of people refused entry at the border and returned without examination of their protection needs? ☐ Yes ☒ No
2. Is there a border monitoring system in place? ☐ Yes ☒ No

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. Please see the [2018 AIDA report](#) for a historical background and legal aspects on the border controls.

Internal border controls were prolonged during 2019. The government decided in October 2019 to continue border control at the internal border for another six months.³⁵ The controls will continue until 12 May 2020. The decision is based on the government's assessment that there is still a threat to public order and internal security in Sweden. The security police also believes that the terrorist threat level is still high. There are also shortcomings in the control of the external borders around Schengen, which means that Sweden must maintain its internal border controls. The checks are concentrated in southern and western Sweden and the **Öresund** bridge.

In its appropriations directions to the Police Authority for 2020, the government states that it shall prioritise and take the necessary measures to be able to carry out a fully functioning regular border control at external borders during all the months of the year. In addition, the authority shall continue to develop its preparedness and ability to conduct an appropriate border control at internal borders if necessary.³⁶

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

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. A total number of 21,958 applications were lodged in Sweden in 2019, the vast majority of which in **Stockholm** (10,509), in **Gothenburg** (4,356) and in **Malmö** (4,033).

³⁵ Government, 'Fortsatt gränskontroll vid inre gräns', 31 October 2019, available in Swedish at: <https://bit.ly/2NXzrvF>.

³⁶ Government, Department of Justice, 'Regleringsbrev för budgetåret 2020 avseende Polismyndigheten', available in Swedish at: <https://bit.ly/2TB8h0V>.

Applications lodged by location: 2019	
Locations	Number of applicants
Arlanda	1,176
Boden	81
Borås	28
Flen	36
Gävle	4
Gothenburg	4,356
Halmstad	14
Jönköping	33
Karlstad	6
Kiruna	8
Kramfors	33
Kristianstad	41
Lindesberg	5
Malmö	4,033
Mariestad	21
Märsta	13
Norrköping	61
Skellefteå	30
Stockholm	10,509
Sundsvall	38
Umeå	43
Uppsala	34
Vänersborg	22
Västerås	24
Växjö	32
Åstorp	16
Örebro	50
Other	1,211
Total	21,958

Source: Migration Agency

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

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

C. Procedures

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”).

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? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| 3. Backlog of pending cases as of 31 December 2019: | 14,890 |

The average handling time for cases at first instance decreased from 507 days or 16.9 months in December 2018 to 288 days or 9.6 months in December 2019. Applications lodged by unaccompanied children have been processed significantly more rapidly than previously: the average processing time decreased from 513 days or 17.1 months as of December 2018 to 215 days or 7.2 months as of December 2019.

The Migration Agency decided upon 57,896 asylum applications in 2019. This included: 24,569 decisions on new applications; 19,951 prolongation decisions where renewal of a temporary protection permit was requested; 540 decisions requesting temporary permission to study at senior secondary level; and 12,836 decisions on subsequent applications.

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

As outlined in the [Overview of the Procedure](#), the Migration Agency has introduced a tracks policy in 2016 for different types of caseloads. Track 1 concerns cases where:

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

In 2019, 2,296 applications were assigned to Track 1. A total of 2,892 decisions were delivered and 1,098 cases were pending by the end of the year.

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? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| ❖ If so, are interpreters available in practice, for interviews? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| 2. In the regular procedure, is the interview conducted by the authority responsible for taking the decision? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| 3. Are interviews conducted through video conferencing? | <input type="checkbox"/> Frequently <input checked="" type="checkbox"/> Rarely <input type="checkbox"/> Never |

Swedish legislation and regulations allow for a personal interview in all asylum cases³⁷. All interviews, whether in the regular or accelerated procedure, are carried out by the authority that is responsible for taking decisions on the asylum applications. These are carried out by officers of the Migration Agency and are divided into two phases. A reception officer interviews the applicant regarding personal details, health, family and general background and can also request that any supporting documents be provided. The asylum case officer carries out an interview to establish the basis of the claim in the presence of a legal representative, an interpreter and the asylum seeker. A decision on the merits is taken by two persons: the case officer and a decision maker. The difference between the two is that the case officer is responsible for the management of the case, which include administrative tasks, conducting the interview and writing a proposed decision. The decision maker is to have continual contact with the case officer, but will, in the end, have the final word regarding the assessment of the application and the decision.

Credibility assessments is of great importance in the asylum procedure. The Swedish Refugee Law Center has carried out a study in 2019 that examined which indicators are used by the Migration Agency in credibility assessments for decisions where the application has been rejected. The study covered 90 decisions from four different regions in Sweden and was based on a handbook published by the Department of Psychology at Gothenburg University. This handbook looks at how to assess credibility in asylum cases, i.e. by identifying suitable indicators to that end.³⁸

The level of detail and consistency were found to be the two most common indicators and were categorised as suitable credibility indicators in the handbook. However, other less suitable indicators seemed to be also common, such as the reasonableness of the story. The study further identified three indicators that are not mentioned in the handbook but are quite frequently used by the Migration Agency. These three are speculations, hearsay and lack of subjective fear. These indicators have in common that they do not have any scientific support for them being suitable to use in credibility assessments.³⁹

1.3.1. Interpretation

The applicant may request an interpreter and interviewer of a certain gender.⁴⁰ The Migration Agency shall accommodate these requests if possible.⁴¹ If the interpreter is lacking the necessary skills and this becomes apparent during the interview the case worker can close the interview and rearrange for another time with a competent interpreter. In practice, if there is a clear problem with interpretation during the interview, then the asylum seeker and/or legal representative can point to it and have the interview discontinued. In that case, a competent interpreter will be engaged on the next occasion.

It is not possible for the authorities to select interpreters sharing the same religious belief as an applicant because it is forbidden in Sweden to register a person's faith. This means that the level of trust in the interpreter can vary and that sensitive issues may be avoided by the applicant. In the case of converts from Islam to Christianity, for instance, there is great sensitivity on this issue from the position of the applicant, who in rare cases has been interviewed by a case officer wearing a hijab. There is also a lack of knowledge of the relevant vocabulary amongst case officers and interpreters which has been noted by the authorities and is currently being addressed through an initiative of the Christian Council of Sweden in cooperation with professionals. Occasionally, interpreters request to be relieved of their task because the case concerns a convert from Islam. In the area of LGBTQI applications, the Migration Agency has

³⁷ Chapter 13 Section 1 Aliens Act

³⁸ Gothenburg University, *Värdering av muntliga utsagor, ett vetenskapligt baserat beslutsstöd för migrationsärenden*, 2017, available in Swedish at: <https://bit.ly/2Ocf6IS>.

³⁹ Swedish Refugee Law Center, *Tillförlitliga kriterier? En granskning av Migrationsverkets tillförlitlighetsbedömningar av asylberättelser*, 2019, available in Swedish at: <https://bit.ly/3dtvDMn>.

⁴⁰ Ch. 8, Section 9 c Aliens Ordinance Act.

⁴¹ Ibid. Note that Article 15.3(c) recast Asylum Procedures Directive introduces that obligation "wherever possible".

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.⁴²

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

The Migration Agency is not obliged to use authorised legal interpreters. However, the Courts do rely on authorised legal interpreters to a larger extent, but they are not always available in certain languages. There is a general code of conduct for interpreters issued by *Kammarkollegiet* in Stockholm and last updated in December 2016.⁴³ All companies stress that they follow the basic principles and respect the rules on confidentiality.

In 2018, the Migration Agency issued a guidance note to its staff regarding levels of competence necessary for different interpretation tasks. The government has also commissioned a wider report on interpretation services which has put forward a number of proposals.⁴⁴ A number of strategic goals for the society's provision of interpreters can be formulated as medium-term goals of around five years:

- The State funds fewer educational pathways for interpreters but increases the total capacity. Volume and orientation are coordinated in relation to state authorisation of interpreters, with a basic requirement for training and workplace learning.
- The State keeps a register of authorised and trained interpreters. This forms the basis of future public sector interpreting services.
- A new interpreting services act is introduced, and the use of children as interpreters is prohibited and replaced with the use of professional interpreters. Regulatory frameworks, quality assurance and supervision of interpreters and intermediary bodies are developed.
- The public sector plans for the long term, collaborates, coordinates and uses existing interpreting resources more flexibly and effectively. An increasing share of resources is used to finance core interpreting activities, i.e. interpreting services.
- Quality-assured interpreters are offered public assignments through the State's coordinated commissioning. Authority requirements are matched against the quality of services delivered.
- The State and public sector build up their own interpreting resources where appropriate, or agree on guaranteed services. Cost increases for the public sector are held back but quality and societal benefits increase.
- The interpreting profession is valued and professionalised, which in the long term also leads to more traditional partnerships, a better work environment, higher employment rates and more labour market stability for interpreters.

⁴² Migrationsverkets kommentar till rapporten om konvertitärenden, <https://bit.ly/2ufK3Pt>.

⁴³ Kammarkollegiet, *Kammarkollegiets tolkföreskrifter*, KAMFS 2016:4, 13 December 2016, available in Swedish at: <http://bit.ly/2jODxHx>.

⁴⁴ 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 his or her own language but it is only what is interpreted that makes its way into the official transcript.

1.3.2. Recording and transcript

While video interviews are increasingly conducted, they remain a rare practice applied only if the applicant is residing at long distance from the Migration Agency's designated interview office. The interview may be audiotaped by the asylum case officer but this is not mandatory. Since the asylum case officer only makes a recording for the purpose of double-checking the notes taken during the interview, the audio-recording is not considered formally part of the processing of the asylum application and therefore the permission of the asylum seeker is not required before a recording is made. For that reason, the tape is not made accessible to legal counsel or the applicant. 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.⁴⁵ A specific date is given by the Migration Agency, usually one to two weeks for when these comments and additional information have to be submitted.

1.4. Appeal

Indicators: Regular Procedure: Appeal

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

❖ If yes, is it	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
❖ If yes, is it suspensive	<input checked="" type="checkbox"/> Judicial	<input type="checkbox"/> Administrative
	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Some grounds <input type="checkbox"/> No
2. Average processing time for the first appeal body to make a decision: 9.6 months

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

1.4.1. Appeal before the Migration Court

A refusal decision by the Migration Agency can be appealed before the Migration Court and has suspensive effect under the regular procedure.⁴⁶ In manifestly unfounded cases, the appeal has no automatic suspensive effect but this can be requested by the applicant and exists until the court decides thereon.⁴⁷

⁴⁵ The Migration Agency has introduced quality assurance procedures that retroactively require an analysis of how a case has been handled from various perspectives. This includes methods of promoting a learning organisation and check-lists have been introduced covering many issues. The team the case officer belongs to examines quality assessment reports on a regular basis and the team-leader has the responsibility for establishing and developing good practice: Information provided by the Migration Agency, 2015.

⁴⁶ Ch. 12, Section 10 Aliens Act.

⁴⁷ Ch. 12, Section 8a Aliens Act.

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.⁴⁸ 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 to submit an appeal and examine the refusal decision. This duty is not laid down in law and there are no legal sanctions against the legal representative if the deadline is missed. The Swedish Bar Association can issue disciplinary sanctions against a legal representative if he or she is a member of the bar. An asylum seeker can also refrain from appealing the decision by signing an appropriate form and withdrawing the claim.

An appeal can be lodged by applicants in their own language, with some indication in Swedish or English – for practical reasons – as to the nature of the reasons for appeal. In a regular procedure an appeal is lodged in Swedish by the appointed lawyer but where no legal assistance is available the Migration Agency has a responsibility to ascertain the general content of a submission in a language other than Swedish and its relevance as a basis of an appeal. This does not mean that all the contents need to be translated in detail before a decision can be made. The appeal is formally addressed to the Migration Court but is sent first to the Migration Agency, which has the legal obligation to review its decision based on any new evidence presented. In 2019 the Migration Agency changed its initial decision in 4 cases (out of 14,760 decided cases). When the Migration Agency does not change its decision, the appeal is forwarded to the Migration Court which can independently decide if further translation is necessary. In 2019, 14,345 decisions were forwarded within 10 days to the Courts.

Oral hearings at the Migration Court are not mandatory but can be requested by the asylum seeker. A decision has to be made by the judge on the matter of an oral hearing before the case is examined by the court. Where the court refuses an oral hearing, the applicant is given a set date by which the appeal must be completed. The four courts vary in the extent to which oral hearings are granted:

Oral hearings held by the Migration Courts: 2019	
Court	Total hearings
Malmö	1,650
Gothenburg	1,082
Luleå	542
Stockholm	1,920
Total	5,194

In 2019, 5,194 hearings were held in a total of 21,978 cases. An oral hearing may be open to the public initially but, before the proceedings start, the judge enquires about the applicant's wishes regarding confidentiality and decides accordingly. The judge may, however, outweigh the wishes of the applicant and declare that the hearing be video recorded e.g. in cases of national security.

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

⁴⁸ Ch. 23 Section 2 Administrative Law (Förvaltningslagen).

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

1.4.2. Onward appeal before the Migration Court of Appeal

"Leave to appeal to the Migration Court of Appeal is issued if:

- (1) it is of importance for the guidance of the application of the law that the appeal is examined by the Migration Court of Appeal or
- (2) there are other exceptional grounds for examining the appeal."⁴⁹

In the general administrative procedure law, there is a further ground for leave to appeal "if reason exists for an amendment of the conclusion made by the county administrative court".⁵⁰ 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.⁵¹ Decisions of the Migration Court of Appeal are final and non-appealable.

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

The Migration Court of Appeal can exceptionally hold an oral hearing but in most cases there is only a written procedure. Decisions on leave to appeal are taken by one or, in exceptional cases, three judges. There are no lay judges at the Migration Appeal Court; it only comprises qualified judges. If leave to appeal is granted, a decision is taken by three judges, while exceptionally important cases are decided by a panel of seven judges.

Free legal aid is provided for public counsel to make an application for leave to appeal. If leave is granted, then further legal aid is provided. Until a decision on leave to appeal is handed down, the appeal has suspensive effect.⁵² If leave is refused, the expulsion order is legally enforceable.

By the end of December 2019, 12,403 appeals were made to the Migration Court of Appeal, out of which 12, 291 were decided upon. Only 54 cases were given leave to appeal, 4 were approved, 27 rejected and 23 referred back to the lower instances.

⁴⁹ Ch. 16, Section 12 Aliens Act.

⁵⁰ Section 34a(2) Administrative Court Procedure Act (1971:291).

⁵¹ Ch. 16, Section 10 Aliens Act.

⁵² Ch. 16, Section 10 Aliens Act.

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.⁵³ 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.⁵⁴

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.⁵⁵ In cases concerning appeal of the Migration Agency's decision regarding declaration of status and a decision not to grant a re-examination of a subsequent application, a public legal counsel shall be appointed if the person requests it, if he or she is in Sweden and it is not obvious that the appeal does not have a reasonable prospect of success.⁵⁶

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.⁵⁷

At the preparatory meeting, the lawyer should inquire briefly as to the substance of the claim and ask for any substantiating documents as well as provide the asylum seeker with advice on the asylum procedure. The legal counsel then attends the oral interview and subsequently makes a submission which incorporates any views on the oral transcript and any supplementary information counsel wishes to refer to in relation to the substance of the case.

It is difficult for the lawyers to know in advance the exact number of hours of work out of those they have requested payment for they will be paid for by the authorities. Their fee can be reduced by a decision of the Migration Agency or at a later stage by the Court. These decisions can be appealed separately by legal counsel. On average, 10-15 hours of work are usually approved at the first instance for regular asylum cases and any hours beyond those must be carefully motivated based on the exceptional nature

⁵³ Ch. 2a, Special Control of Aliens Act (Lagen om särskild utlänningskontroll) 1991:572.

⁵⁴ Ch. 10, Special Control of Aliens Act.

⁵⁵ Chapter 18, Section 1 Aliens Act,

⁵⁶ Chapter 18, Section 1a Aliens Act,

⁵⁷ Migration Court of Appeal, Decision MIG 2017:21, UM8311-17, 14 November 2017, available in Swedish at: <http://bit.ly/2sgVeWj>.

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 €139 an hour (1,480 SEK, not including VAT).⁵⁸ 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.⁵⁹ Due to JO criticism, the Migration Agency issued an internal instruction in 2017 on qualifications needed in order for the Agency to appoint a person as legal counsel.⁶⁰

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

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

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

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

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

For these reasons, the state, as a rule, pays for public assistance in the asylum process. However, unlike what applies when appointing public defense officers, there is no formal requirement that the person being appointed as public counsel must be a lawyer or even have a law degree. Instead, it is a general rule that the person in question must be "suitable for the assignment".⁶¹

⁵⁸ Standard hourly fee for 2020 according to the Legal Aid Act, <https://bit.ly/2uJLHsA>.

⁵⁹ 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>.

⁶⁰ Migration Agency, *Kvalitetschefens reviderade instruktion om standard för lämplighetsprövning av offentligt biträde*, I-35a/2017, 20 November 2017, available in Swedish at: <http://bit.ly/2FrNBOK>.

⁶¹ Sverigesradio, "Juristerna, brotten och den svarta listan", 2 April 2018, available in Swedish at: <https://t.sr.se/2TqJt80>.

This led to a proposal from a number of academics and lawyers that the right to public counsel should be decided on by a court and not the Migration Agency.⁶² This proposal has not led to any changes so far.

The Agency maintains a list of persons who have registered to be legal counsel in asylum and migration cases and distributes cases according to their availability. There are no requirements on legal counsel to pass any tests in this area of law and this means there can be an uneven level of competence which in individual cases can be to the detriment of the asylum seeker's protection grounds. The asylum seeker has the right to complain if the appointed legal counsel does not fulfil his or her duties and to request a new lawyer. However, this is rarely granted. Lawyers must have seriously breached their professional duties to be removed from a case e.g. drunken behaviour or other gross misconduct not directly related to the handling of the substance of the case. Migration law is not very prestigious in the legal profession but initiatives have been taken at the Universities of Uppsala and Lund to give training to students at doctoral level in this field who will monitor and analyse current Swedish practice and developments in international law.

In 2019, legal counsel was granted in 17,099 regular cases and in 277 Dublin cases.⁶³

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

2. Dublin ("Track 5A")

2.1. General

Dublin statistics: 2019

Outgoing procedure			Incoming procedure		
	Requests	Transfers		Requests	Transfers
Total	3,641	2,057	Total	6,474	4,381
Greece	1,047	76	Germany	2,301	1,818
Italy	491	348	France	1,730	1,035
Germany	421	322	Italy	370	322
France	247	197	Greece	284	142
Spain	229	199	Belgium	262	134
Denmark	181	116	Denmark	192	142
Poland	170	135	Netherlands	168	125
			United Kingdom	110	69

Source: Migration Agency. The figures on transfers provided above refer to the number of transfer decisions, not to the number of transfers that were effectively carried out in practice.

⁶² Dagens Juridik, "Lagstiftarens elefant i rummet - Migrationsverkets rätt att förordna offentliga biträden", 14 March 2018, available in Swedish at: <http://bit.ly/2Oqlsfh>.

⁶³ Information provided by the Migration Agency's statistics unit.

2.1.1. Application of the Dublin criteria

In 2019, Sweden issued 3,641 and received 6,474 requests under the Dublin Regulation. Detailed statistics on which Dublin III Regulation criterion was used were not available at the time of writing (March 2020).

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

All asylum seekers are fingerprinted if they are 14 years or older and checked both in the Eurodac and Visa Information System (VIS) databases. In 2019, 19,323 fingerprints were submitted and 5,782 hits were made in Eurodac and 5,763 in VIS, of which 1,991 indicated Dublin cases. The top five hit countries for Eurodac were Greece, Germany, Italy, Denmark and Norway and the top five countries of origin were Syria, Afghanistan, Iraq, Somalia, stateless persons.

2.1.2. The dependent persons and discretionary clauses

Sweden made 9 requests based on the “humanitarian clause” in 2018 and none based on the “dependent persons’ clause” respectively, and received 71 and 7 incoming requests on those grounds.

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 37 officials at the end of 2019.

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 also made to reduce the daily allowance to the asylum seeker because of their unwillingness to cooperate. The applicant is informed of the right to appeal in person and the right to write it in their own language if need be but also told that an appeal will not have a suspensive effect unless the Migration Court makes a different assessment.

The Migration Agency has produced information sheets in several languages outlining the mechanisms of the Dublin Regulation, 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.⁶⁴

In March 2019, the Migration Agency confirmed in its legal guidance regarding Dublin returns to **Italy** that no guarantees need be sought in advance when transferring families as the Italian authorities have reissued guarantees. It stated that: “Italy has, in a new circular to the Member States, provided new general guarantees regarding the reception of families of children transferred under the Dublin Regulation. It is the Migration Agency’s opinion that these guarantees are sufficient for transfers of families with children according to the Dublin Regulation to be made without individual guarantees being obtained.”⁶⁵

2.2.2. Transfers

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

In 2019 Sweden received 6,474 Dublin incoming requests and made 3,641 outgoing requests to other Dublin States. A total of 3,002 transfers and other removals (including persons who have been granted asylum in another Dublin country) were carried out to another Dublin country in 2019, of which 2,302 were under the responsibility of the Migration Agency and thus left voluntarily and 700 were under the responsibility of the Police and include both voluntary and forced removals.⁶⁶

The average processing time for all Dublin cases in 2019 i.e. until a transfer decision was issued, was 58 days, down from 72 in 2018.

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,⁶⁷ 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.

⁶⁴ Information provided by the Migration Agency, August 2017.

⁶⁵ Migration Agency, Rättsligt ställningstagande angående överföring av barnfamiljer till Italien i enlighet med Dublinförordningen (EU) nr 604/2013, SR 08/2019, 25 March 2019, available in Swedish at: <https://bit.ly/2Puxgiq>, which replaced the 2016 guidance.

⁶⁶ Migration Agency, Annual Report 2019, available in Swedish at: <http://bit.ly/382Zbh6>.

⁶⁷ Migration Court of Appeal, MIG 2007:4, UM 607-06, 22 January 2007, available at: <http://bit.ly/2oZzsl1>.

Questions are asked about relatives in other EU countries, previous stays in EU countries, the health condition of the applicant, any objections to being sent to the responsible EU Member State, and attitude towards leaving voluntarily.

A transcript of the interview is made but not normally communicated to the asylum seeker since it is only in Swedish. If there are close relatives in another EU country, Swedish authorities take no action to inform that country of the presence of a relative in Sweden but await a request from the other country regarding the desirability of family reunification and written consent from the family present in Sweden to be reunited.

2.4. Appeal

Indicators: Dublin: Appeal

☒ Same as regular procedure

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

❖ If yes, is it

❖ If yes, is it suspensive

☒ Yes

☒ Judicial

☒ Yes

☐ No

☐ Administrative

☐ No

The application is dismissed as inadmissible when the Dublin Regulation applies.⁶⁸ 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.⁶⁹ Moreover, appeals in Dublin cases are often expedited quickly by the Migration Court and the Migration Court of Appeal. The appeal body does not take into account the recognition rates in the responsible member state when reviewing the Dublin decision.

The Migration Court of Appeal made a reference for a preliminary ruling to the CJEU in the case of *Karim*, concerning the scope of the right to an effective remedy under the Dublin Regulation.⁷⁰ The referring court has asked the CJEU to clarify whether an applicant is entitled to challenge a Dublin transfer solely on the basis of systemic deficiencies or also on other grounds i.e. relating to the application of the responsibility criteria. The CJEU ruled on 7 June 2016 and found that in order for a correct application of the responsibility determination procedure under the Dublin III Regulation to take place, the applicant must be able to contest a transfer decision and invoke an infringement of the rule set out in Article 19(2) of the Regulation, i.e. where the applicant provides evidence that he/she has left the territory of one Member State, having made an application there, for at least three months and has made a new asylum application in another Member State.⁷¹

The Migration Court of Appeal decided on 24 November 2016 to refer the case back to the Migration Court for new consideration.⁷² The Migration Court in turn referred the case back to the Migration Agency which decided it was still a Dublin case and this standpoint was not changed by the courts on appeal.⁷³

⁶⁸ Ch. 5, Section 1c Aliens Act.

⁶⁹ Ch. 12, Section 9 a Aliens Act.

⁷⁰ CJEU, Case C-155/15 *Karim v. Migrationsverket*, OJ 2015 C198/23.

⁷¹ CJEU, Case C-155/15 *Karim v. Migrationsverket*, Judgment of 7 June 2016, available at: <http://bit.ly/2kKfKa9>.

⁷² Migration Court of Appeal, MIG 2016:24, UM 6068-14, 24 November 2016, available at: <http://bit.ly/2km3Qpk>.

⁷³ Information provided by Migration Agency, February 2018.

2.5. Legal assistance

Indicators: Dublin: Legal Assistance

☐ Same as regular procedure

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

Legal counsel is not made available at first instance in Dublin cases but can be requested at second instance.⁷⁴

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

2.6. Suspension of transfers

Indicators: Dublin: Suspension of Transfers

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

To Hungary

In March 2019, the Migration Agency announced it considers that there are well-founded reasons to assume that there are currently such systemic deficiencies in the asylum procedure and reception conditions in **Hungary** referred to in Article 3(2) of the Dublin Regulation.⁷⁵ These deficiencies entail a risk of inhuman or degrading treatment within the meaning of Article 4 of the Charter of Fundamental Rights of the European Union.

In the event that Hungary is found to be the responsible State in accordance with the Dublin Regulation, it is not possible to transfer the applicant there. In turn, this means that the Migration Agency will in these cases continue to examine the criteria set out in the Dublin Regulation in order to determine whether another Member State can be designated as responsible. In the event that such a state cannot be determined, Sweden is the responsible state for the examination of the application.⁷⁶

Previously, the Migration Agency had not suspended all transfers to Hungary and still delivered Dublin decisions. However, only 10 persons were forcibly removed from Sweden to Hungary during 2017 according to statistics from *Kriminalvårdens transporttjänst*. If the decisions to remove to Hungary are not carried out within six months then the case automatically becomes Sweden's responsibility. In 2017, 10

⁷⁴ There is a right to free legal assistance if a person is detained for more than 3 days as a measure related to expulsion or transfer. Also, certain vulnerable asylum seekers (deaf and mute for example) can be granted free legal assistance.

⁷⁵ Migrationsverket, *Rättslig kommentar angående överföringar till Ungern i enlighet med Dublinförordningen*, SR 06/2019, 4 March 2019, available in Swedish at: <http://bit.ly/2HEERcY>.

⁷⁶ Migrationsverket, *Rättslig kommentar angående överföringar till Ungern i enlighet med Dublinförordningen*, SR 06/2019, 4 March 2019, available in Swedish at: <http://bit.ly/2HEERcY>.

persons have been transferred to Hungary even though decisions were taken to transfer 57 persons there, which Hungary had accepted. In 2018 and 2019, no persons were transferred to Hungary.

To Greece

In February 2018, the Migration Agency decided to reinstate transfers to Greece. The decision was made with reference to the recommendation from the European Commission, which was issued almost a year earlier.⁷⁷ 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.⁷⁸ In 2019, 1,047 transfers request were made to Greece, of which 955 decisions were taken. The number of transfers carried out effectively in practice was not available at the time of writing (March 2020).

2.7. The situation of Dublin returnees

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

During 2018, the Aliens Act was amended concerning responsibility for the reception of Dublin returnees which means that the police authority takes over the responsibility from the Migration Agency regarding the reception of persons who have been accepted in accordance with the Dublin Regulation when there is a legally enforceable decision on cancellation or expulsion.⁷⁹

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

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

3.1. General (scope, criteria, time limits)

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

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

In practice, the Migration Agency deals with cases of persons benefitting from protection in another EU country under “Track 5B”. Cases concerning third countries are processed under “Track 5C”. The Migration Agency shall take a decision on the admissibility of the application within 3 months. In 2019, the Migration Agency received 425 applications that were processed under Track 5B and 15 applications were processed under Track 5C. 448 decisions were taken under Track 5B and 14 decisions taken under track 5C.

⁷⁷ Recommendation C(2016) 8525 of 8 December 2016

⁷⁸ Information from the Migration Agency, Dublin Unit, July 2019.

⁷⁹ Chapter 10, Section 13 Aliens Act.

3.2. Personal interview

There are no differences in the way the personal interview is conducted in cases where grounds for inadmissibility apply (see: [Regular procedure Personal interview](#)).

3.3. Appeal

Indicators: Admissibility Procedure: Appeal

☐ Same as regular procedure

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

❖ If yes, is it

❖ If yes, is it suspensive

☒ Yes

☒ Judicial

☐ Yes

☐ No

☐ Administrative

☒ Some grounds ☐ No

The Migration Agency may take a decision with immediate enforcement for applications dismissed on the basis of protection in another EU Member State or the first country of asylum concept; not for safe third country cases.⁸⁰

Therefore the appeal has automatic suspensive effect in cases dismissed on safe third country grounds, but it has no automatic suspensive effect in cases concerning protection in another EU Member State and in first country of asylum cases. That said, the December 2018 legal opinion of the Migration Agency states that a decision with immediate enforcement should be taken in first country of asylum cases when it is obvious that the applicant enjoys sufficient protection in the country concerned.⁸¹

3.4. Legal assistance

As a rule, legal assistance is not granted in cases falling under the grounds for inadmissibility, unless a more thorough assessment of first country of asylum or safe third country considerations is required. Such an assessment is conducted by the Migration Agency depending on the difficulty of the case. However, legal assistance is always granted to unaccompanied children and may exceptionally be granted to applicants depending on factors such as age or mental illness.⁸²

4. Border procedure (border and transit zones)

There is no border procedure in Sweden.

5. Accelerated procedure (“Track 4”)

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

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

- Manifestly unfounded claims (“Track 4A”) and
- Claims from nationalities with a recognition rate below 20% (“Track 4B”). The countries currently listed are: Albania, Armenia, Azerbaijan Belarus, Bosnia and Herzegovina, Colombia, Côte

⁸⁰ Ch. 8, Section 19 Aliens Act.

⁸¹ Migration Agency, *Rättsligt ställningstagande angående avvisning av ansökan om uppehållstillstånd med stöd av 5 kap. 1 b § utlänningslagen*, 44/2018, 6 December 2018, available in Swedish at: <https://bit.ly/2L00rv8>, 5 et seq.

⁸² Migration Agency, *Rättsligt ställningstagande angående avvisning av ansökan om uppehållstillstånd med stöd av 5 kap. 1 b § utlänningslagen*, 44/2018, 6 December 2018, available in Swedish at: <https://bit.ly/2L00rv8>, 5 et seq, pp 8-9.

d'Ivoire, Cuba, Egypt, El Salvador Georgia, Kazakhstan, Kyrgyzstan, Kosovo, North Macedonia, Morocco, Moldavia, Mongolia, Montenegro, Serbia, Tunisia, Ukraine and Vietnam.

In 2019, 149 persons had their applications rejected as manifestly unfounded, down from 1,115 in 2018. These applications were processed under Track 4A. However, 5,349 persons received a rejection decision under Track 4B.

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.”⁸³

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.⁸⁴ The assessment should not be summary, by being solely based on the circumstance that the applicant has a certain nationality to which normally asylum is not being granted, for instance. The assessment of “manifestly” must always be based on the circumstances of the individual case.

A 2016 legal instruction by the Legal Unit of the Migration Agency,⁸⁵ established that an expulsion with immediate effect should be considered in the following cases:

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

However, since the CJEU ruling in *A v Migrationsverket*,⁸⁶ published on 25 July 2018, Sweden can no longer use the procedure for immediately expelling persons with manifestly unfounded claims on the basis that the applicant comes from a [Safe Country of Origin](#), since Swedish national legislation does not include a list of safe countries of origin established in accordance with Annex I to the recast Asylum Procedures Directive duly notified to the Commission and the enactment of additional implementation rules and modalities.

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

Extenuating circumstances leading to access to the full procedure could be health reasons or cumulative grounds. The Migration Agency has updated its position on expulsion in such cases with immediate effect in its legal guidance, including in light of the abovementioned CJEU ruling in *A v Migrationsverket* as well as *Gnandi*.⁸⁷ The Migration Agency states in its guidance that the deadline for voluntary departure does not begin to run as long as the person has the right to remain and the person must also not be detained for removal purposes. Regarding *A v Migrationsverket*, the Agency states that if the applicant is not

⁸³ Ch. 8, Section 19 Aliens Act. See also Ch. 12, Section 7 Aliens Act.

⁸⁴ Migration Court of Appeal, MIG 2006:7, UM 230-06, 31 October 2006; MIG 2010:22, UM 2244-10, 22 December 2010.

⁸⁵ Migration Agency, *Rättsligt ställningstagande angående avvisning med omedelbar verkställighet 8 kap 19 § utlänningslagen*, SR 21/2016, 1 July 2016, available in Swedish at: <http://bit.ly/2jxTDI8>.

⁸⁶ CJEU, Case C-404/17, *A v. Migrationsverket*, Judgment of 25 July 2018, EDAL, available at: <http://bit.ly/2Ubxvn6>.

⁸⁷ CJEU, Case C-181/16 *Gnandi v Etat belge*, Judgment of 19 June 2018, EDAL, available at: <https://bit.ly/2ITsDwX>.

entitled to protection because it is assessed there is a sufficient protection by the authorities in the home country, or the asylum grounds are otherwise deemed insufficient, a decision cannot be taken on rejection with immediate enforcement pursuant to Chapter 8, Section 19 of the Aliens Act, but a rejection without an order for immediate enforcement is possible.⁸⁸

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

5.2. Personal interview

Indicators: Accelerated Procedure: Personal Interview

☐ Same as regular procedure

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

A personal interview is mandatory, as per a guideline decision of the Migration Court of Appeal.⁸⁹ There are no differences in the way the interview is carried out compared with the [Regular Procedure: Personal Interview](#), apart from the absence of a legal representative.

5.3. Appeal

Indicators: Accelerated Procedure: Appeal

☐ Same as regular procedure

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

There is no difference in time limits for lodging appeals under the accelerated procedure compared to the regular procedure (see [Regular Procedure: Appeal](#)). The same time limit of 3 weeks after the decision is notified applies.⁹⁰

Previously, appeals against decisions taken in the accelerated procedure had no suspensive effect. In the meantime, the applicant could be removed by the police, in which case the appeal, if ever made, was abandoned. In fact, many applicants refrained from appealing and leave voluntarily in order to avoid forced removal and being issued with a re-entry ban. However, the law provides that an appeal has automatic suspensive effect until the Migration Court has made a decision on whether the removal should be suspended pending the outcome of the appeal.⁹¹

The 2018 guidance of the Migration Agency clarifies that when appealing against decisions with immediate enforcement, a Migration Court must examine the issue of suspending enforcement.

⁸⁸ Migrationsverket, *Rättsligt ställningstagande angående avvisning med omedelbar verkställighet till hemlandet enligt 8 kap. 19 § utlänningslagen*, SR 43/2018, 6 December 2018, available in Swedish at: <http://bit.ly/2CBz6sx>.

⁸⁹ Migration Court of Appeal, MIG 2007:4, UM 607-06, 22 January 2007.

⁹⁰ Section 44, The Administrative Procedure Act (2017:900).

⁹¹ Ch. 12, Section 8a Aliens Act.

Enforcement cannot take place from the decision during the appeal deadline and up to the migration court's examination of the issue of suspension. Nor can enforcement measures be taken.⁹²

5.4. Legal assistance

Indicators: Accelerated Procedure: Legal Assistance

☐ Same as regular procedure

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

The Aliens Act states that there is no automatic obligation to provide legal counsel in manifestly unfounded cases, although this is possible in cases of vulnerability.⁹³ However, if the court is of the opinion that the case is not manifestly unfounded, then the court orders suspension of the expulsion order and legal counsel will be appointed. Such a case is referred back to the first instance if there is not sufficient information regarding material grounds for a permit to be granted. The difficulties with regard to access to legal assistance in the regular procedure are also applicable here (see [Regular Procedure: Legal Assistance](#)).

D. Guarantees for vulnerable groups

1. Identification

Indicators: Identification

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

The legal framework with regard to the needs of vulnerable asylum seekers is part of the 1994 Law on the Reception of Asylum Seekers (LMA). The LMA provides the legal framework and briefly mentions the provision for the needs of vulnerable groups. These are not defined but the Migration Agency has set out standards for the reception of vulnerable asylum seekers, mainly including children, women, disabled persons, elderly, persons with mental disorders or serious illnesses, and persons vulnerable to harassment or exploitation due to sexual orientation or gender identity.

When commenting on the legislative proposal on the recast Asylum Procedures and Reception Conditions Directives, the Migration Agency, as well as a number of civil society organisations, suggested the lawmaker to specify how identification of vulnerable groups should be carried out, but the government did not believe it to be necessary (see [Special Procedural Guarantees](#)). It can be argued that the process of

⁹² Migrationsverket, *Rättsligt ställningstagande angående avvisning med omedelbar verkställighet till hemlandet enligt 8 kap. 19 § utlänningslagen*, SR 43/2018, 6 December 2018, available in Swedish at: <http://bit.ly/2CBz6sx>.

⁹³ Ch. 18, Section 1 Aliens Act.

making sure the Directives are followed have been delayed, and that different authorities have taken different approaches. A special working group at the Migration Agency has looked at vulnerable groups from all aspects, as part of the transposition of the recast Asylum Procedures Directive into Swedish law.⁹⁴ They have issued a standard through the Quality Assurance Unit of the Migration Agency which was updated on 25 September 2017.⁹⁵ The Migration Agency has also opened three sheltered homes for up to 45 vulnerable asylum seekers in different parts of the country. The new accommodation is intended for people with individual and specific needs that are not being met with in the Migration Agency's regular operations, support and housing that are already in existence. This may involve, for example asylum seekers from ethnic minorities, victims of torture or LGBTQI people with special needs of networking and social context.

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

1.1. Screening of vulnerability

All asylum seekers are offered health screening and at least 50% take advantage of this. This is particularly important in relation to survivors of torture and traumatised persons. However, because of confidentiality rules, this information is not automatically available to caseworkers. The legal counsel can however request access to this information with the permission of the applicant.

The Migration Agency does not yet collect disaggregated statistics on the number of asylum seekers identified as vulnerable.⁹⁶ However, the standard published on 25 September 2017 makes this possible, although this has not been implemented systematically so no statistics are publicly available. Under the standard, all Migration Agency staff are required to report vulnerabilities in an official note that is fed into a common database, mentioning at which stage in the procedure vulnerability is observed and what measures this has led to. It is stressed that a vulnerability assessment must always be made in the initial process.

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

During 2019, 481 cases of suspected human trafficking were identified at the Migration Agency concerning; 266 concerning women and 123 concerning men. 92 of these were under 18, 18 girls and 74 boys. The most common nationalities were Nigeria, Thailand, Morocco, Uzbekistan and Vietnam. The Migration Agency filed reports or provided information to the police in 372 cases.⁹⁷

1.2. Age assessment of unaccompanied children

The Migration Court of Appeal has made it clear in a precedent-setting ruling that the burden of proof lies with the applicant to establish his or her stated age as probable, with the aid of supporting documents, where available.⁹⁸

⁹⁴ Act (2016:1243) amending the Aliens Act, 16 December 2016, available in Swedish at: <http://bit.ly/2kP9vkz>.

⁹⁵ Migration Agency, *Kvalitetschefens instruktion om standard för dokumentation av särskilda behov*, I-78/2017, 25 September 2017.

⁹⁶ Information provided by the Migration Agency, January 2018.

⁹⁷ Migration Agency, *Annual Report*, 19 February 2020.

⁹⁸ Migration Court of Appeal, MIG 2014:1, UM 2437-13, 11 February 2014, available at: <http://bit.ly/2jQwVWr>.

Age assessment is also important if it is uncertain whether the applicant is older than 14 years of age. This has consequences regarding the possibility of taking and checking fingerprints in Eurodac and hence of finding another Member State who might be responsible for examining the asylum request.

Where documents or other evidence proving the applicant's age as probable are not available, the age stated at the time of lodging of the application is noted down. If doubts arise regarding the applicant's real age based on observation of their behaviour, then the claimed age can be altered in the records and the person is transferred to the procedure for adults. In other cases, the statements of the individual are examined and questions can be asked in order to try to determine the person's real age. However, more weight is given to medical assessments than to other sources of information, a fact criticised by the Council of Europe Commissioner for Human Rights following a visit to Sweden.⁹⁹

Medical methods used

When almost 35,000 unaccompanied minors sought asylum in Sweden in 2015, critical voices were raised regarding the need to develop more reliable methods to establish whether an applicant was a child or not. The government gave instructions to the National Board of Forensic Medicine (*Rättsmedicinalverket*, RMV) to investigate more reliable methods, while at the same time recognising that absolute accuracy was not achievable. This authority has now chosen two methods to assess age and has introduced a new system in March 2017 whereby such age assessment tests can be carried out rapidly throughout the country.

The Migration Agency has the right to request a medical age assessment subject to the consent of the person and his or her guardian. The cost of such an examination is borne by the Migration Agency. Previously, the Migration Agency staff could carry out subjective age assessments that could not be appealed. In the second half of 2016 and in early 2017, many unaccompanied children had their age adjusted to 18 summarily by the Migration Agency because they had not been able to provide acceptable proof of their stated age. The Swedish Bar Association then recommended their members not to request an age assessment examination as the methods then used provided results that were indecisive and could be to the detriment of their clients.

The Agency does not need to have probative evidence for claiming the child is 18. The change in age can only be established when a decision is taken in the asylum case. This means that the unaccompanied child will be told on the same day as the decision is conveyed that he or she is 18 years old and given an arbitrary date of birth which is frequently the date of the decision or close to it. Furthermore, he or she is told to leave the home for unaccompanied children immediately and risk being transferred to another part of Sweden without having the right to continue his or her education. Therefore, many try to arrange accommodation where they are currently living to be able to continue at school. They also no longer have the support of the guardian.

In the new framework for age assessments, the first instance decision is subject to appeal and the claim that the applicant is over 18 does not formally have legal force until the appeal decision has been taken. However, in practice other authorities accept the age assessment of the Migration Agency and act accordingly.

Assessments are conducted based on medical examination of wisdom teeth and knee joints. The RMV explains that:

“There is no method for medical age assessment that can determine a person's exact age. RMV's core task is to deliver reports in the form of analyses and expert opinions in areas such as forensic

⁹⁹ Council of Europe Commissioner for Human Rights, 'Sweden should enhance protection of asylum seekers and persons with disabilities', 16 February 2018, available at: <http://bit.ly/2oxGE8z>.

matters and there is a great deal of experience within the authority of dealing with different degrees of uncertainty in the estimates. RMV's analyses and judgments are based on evidence or proven experience, which also applies to the work of medical age assessments. RMV in their forensic reports about age never speak with greater certainty than the scientific methods allow.

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

The age assessment can yield the following outcomes:

- The result "says that the person is 18 or older"
- The result "possibly speaks for the person being 18 or older"
- The result "possibly speaks for the person being under 18"
- The person is under 18

For the wisdom tooth and growth of the knee to be considered as having reached the final stage, both dentists and radiologists must reach the same conclusion. However, full maturity of just one of these – either tooth or knee – is required for the statement that the result "possibly speaks for the person being 18 or older".

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

Figures on the year 2019 were not available at the time of writing (March 2020). However, the number of age assessment requests and outcomes in 2018 were as follows:

Age assessment requests and outcomes: 2018			
Request / Outcome	Male	Female	Total
Requests for medical age assessment	:	:	574
Forensic opinions on age by the National Medical Service Agency	1,086	166	1,252
Person is 18 or over	0	14	896
Person is possibly 18 or over	807	89	896
Person is possibly under 18	270	1	271
Not possible to conduct survey of wisdom teeth / of knee joint	9	62	1,252

Source: Migration Agency.

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

The Legal Unit of the Migration Agency carried out a review of cases involving age assessment in November 2016 i.e. before the new system was launched. It noted in its report that the following areas for improvement had been identified:¹⁰⁰

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

According to the government's request to the RMV at the time of the inception of the new system, if the proposed new tests do not give a clear indication of whether the person is under or over 18, the principle of the benefit of the doubt as per Article 25(5) of the recast Asylum Procedures Directive is to be respected.¹⁰¹

Critique on reliability and accuracy

The methods of age assessment have been heavily criticised by the medical community and even by those obliged to carry out the tests. Some experts have resigned in protest at the unproven methods and the fact that it is not the dentists or the X-ray specialists who sign the official report but rather persons employed by the RMV.¹⁰² 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. The national network of professionals coming into contact with unaccompanied children, "We can't stand it anymore" (*Vi star inte ut*), published a critical report in the autumn of 2017, referring to many examples of deficiencies regarding interpreters, administrators, decision makers, agents and guardians.¹⁰³

Both the Pediatric Medical Association and several of the RMV doctors, as well as international experts on age assessment, have distanced themselves from the method of measuring the knee joint. However, the RMV claims that the margin of error is small and Elias Palm, its Head of Department, has previously defended the magnetic camera survey of the knee joint.

In certain cases, second opinions have been sought abroad based on the same scientific material, which have drawn the opposite conclusion. A Swedish journalist has reported in a series of critical articles, among other things, that two of the German researchers who have contributed and developed the method used by RMV make a completely different assessment of almost half of the 80 cases in so-called second opinions. Where RMV meant that the person was over 18 years old, the German experts said that it is not possible to determine that based on the evidence.¹⁰⁴

Responding to the criticisms, Monica Rodrigo, the RMV Director-General, stated:

"The criticisms that have emerged are primarily based on secondary data, and are other than non-scientific data. They are derived from two German researchers, which should be noted. We

¹⁰⁰ Migration Agency, *Tematisk kvalitetsuppföljning av åldersbedömning i samband med beslut om uppehållstillstånd*, 1.34-2016-178414, 28 November 2016.

¹⁰¹ Ministry of Justice, *Uppdrag till Rättsmedicinalverket att genomföra medicinska åldersbedömningar*, Ju2016/03931/Å, 19 May 2016, available in Swedish at: <http://bit.ly/2jyacNV>.

¹⁰² Upsala Nya Tidning, 'Hon slutar i protest mot åldersbedömningar', 1 February 2018, available in Swedish at: <http://bit.ly/2C4O4nB>.

¹⁰³ VSIU, 'Report about Legal Uncertainties in the Asylum Process For Unaccompanied Minors in Sweden', 26 February 2018, available at: <http://bit.ly/2FEuiD2>; *Rapport om rättsosäkerhet i asylprocessen för ensamkommande barn och unga*, September 2017, available in Swedish at: <http://bit.ly/2C5QySC>.

¹⁰⁴ Expressen, '"Jag tycker att det är riktigt oseriöst"', 9 January 2018, available in Swedish at: <http://bit.ly/2Eer9fG>.

have tried to contact them. We want the background information they have not published and we have not been able to obtain it so I think it's really unscrupulous of them.”¹⁰⁵

However, the criticism of the reliability of the methods vis-à-vis female asylum seekers has led to a suspension of age assessments in November 2017 pending the outcome of a more in-depth investigation by the RMV. The investigation has resulted in new guidelines for testing female asylum seekers and the tests have now been resumed.¹⁰⁶ In cases where the teeth indicate maturity and the knee does not, the following statement will be made: “The result does not allow an assessment of the age of the examined persons relative to the 18-year limit.” In the case where both knee and teeth examinations show no indication of full maturity the statement will read: “Indicates that the examined person is under 18”.

In response to the public and professional criticism, RMV published a statement on 18 January 2018 explaining its methods and the political and legal context in which its task has been formulated.¹⁰⁷

After criticism on the methods used for age assessments, the National Board of Health and Welfare was commissioned to study whether the method with magnetic camera to determine age is reliable or not. The study included 938 healthy young people aged 14-21.5 years, all born in Sweden and registered in Stockholm and Blekinge. The study began in September 2017 and ended on 10 April 2018. The Karolinska Institute and Blekinge University of Technology have tested some of the Swedish Forensic Medicine's methods, in this case, five different growth zones were examined with magnetic X-ray to assess the maturity of the legs.

The results of the studies show that the magnetic camera examination can be part of an age assessment, with very great certainty if a girl is over 14 and a boy is over 15, as well as during 18 and 19 years, respectively. The closer one gets to the age of 18, however, it will be more difficult to judge age, i.e. whether someone is a child or adult, and especially girls are difficult to judge because they mature earlier.¹⁰⁸

In August 2018, the Swedish Council on Medical Ethics sent a letter to the Department of Justice concerning medical age assessment in the asylum process, recommending the Government to objectively examine the process of medical age assessments. The aim is to ensure unaccompanied refugee children's rights.

The Council considers that there are several uncertainties regarding medical age assessments in the asylum process. Primarily, the question is whether the National Board of Forensic Medicine (RMV) declares the risk of misjudging a child in an accurate way in the forensic statement. The Council referred also to its publication on the issue from 2016.¹⁰⁹ The Council considers, *inter alia*, that:

- it must be examined whether the MR-knee method and the assessment model used in Sweden are sufficiently scientifically substantiated to allow a well-founded estimation of uncertainties and the risks of error assessment in a medical age assessment.
- it must be investigated whether the assessment model with regard to boys / men is legally certain in the light of the current state of knowledge.
- it must be ensured that the forensic statements regarding medical age assessment are based on the current state of knowledge.

¹⁰⁵ *Ibid.*

¹⁰⁶ RMV, 'Medicinsk åldersbedömning: Förändrad bedömning för flickor', 9 March 2018, available in Swedish at: <https://bit.ly/2G983W3>.

¹⁰⁷ RMV, 'Förttydligande om medicinska åldersbedömningar', 12 January 2018, available in Swedish at: <http://bit.ly/2BKXEAK>.

¹⁰⁸ Aftonbladet, 'Beskedet: Svårt att avgöra om någon är barn eller vuxen', 31 May 2018, available in Swedish at: <http://bit.ly/2HE98IR>.

¹⁰⁹ Smer, 'Summary of an opinion – Medical age assessments in the asylum process – ethical aspects', October 2016, available at: <http://bit.ly/2WoeXNX>.

- it must be ensured that the statements regarding medical age assessment are appropriately designed and sufficiently clear (e.g. with regard to uncertainties) in order for the Migration Agency to be able to make a lawful assessment of the asylum seeker's age.

According to the Council more transparency is needed on how the RMV makes its calculations. The authority should give an open account of how it has reached the level of the risks of error assessment in medical age assessment.¹¹⁰

A few medico-legal experts at the National Board of Forensic Medicine in Uppsala resigned from their posts in protest at the way age assessments were being carried out.

The RMV continues to carry out age assessments and has responded to the arguments criticising their methods.¹¹¹

In December 2018, the Swedish Medical Ethics Council (Smer) invited the Government to set up an independent review of the age assessments and in April 2019 the Social Democrats and the Green Party decided that a commission of inquiry would be set up.¹¹² However, by March 2020 they had so far not agreed on the terms of reference for the inquiry.¹¹³

In May 2019, the Swedish Refugee Law Center and Civil Rights Defenders brought a case on wrongful age assessment of an unaccompanied child before the Chancellor of Justice (*Justitiekanslern*). The case concerns the violation of the rights of an unaccompanied child who applied for asylum in Sweden in 2015 and was rejected as the result of an age assessment conducted by the National Board of Forensic Medicine (Rättsmedicinalverket, RMV). While RMV medical examination of his wisdom teeth established that he was likely a minor the result of the examination of his knee joints established that he was likely above 18 years old. A second opinion from private medical experts as well as several personal documents supported the boy's claim of being a minor.¹¹⁴

2. Special procedural guarantees

Indicators: Special Procedural Guarantees

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

☐ Yes
 ☒ For certain categories
 ☐ No

❖ If for certain categories, specify which: Unaccompanied minors

2.1. Adequate support during the interview

Although there is no specialised unit dealing with vulnerable groups at the Migration Agency, the issue of special needs of vulnerable asylum seekers is mainstreamed in the training of caseworkers. The Migration Agency has developed training courses for caseworkers who interview children, *inter alia* based on European Asylum Support Office (EASO) training modules, and those who have completed this training are designated as case workers especially for unaccompanied children. Similar courses have been carried out and instructions issued in relation to women refugee claimants and claimants with LGBTQI grounds.¹¹⁵

¹¹⁰ RMV, "Oklarheter kring medicinska åldersbedömningar i asylprocessen", available in Swedish at <http://bit.ly/2UYLuKo>.

¹¹¹ Rättsmedicinalverket, "Klargörande om medicinska åldersbedömningar i asylärenden", 14 December 2018, available in Swedish at <http://bit.ly/2Fpv2fl>.

¹¹² Svenska Läkaresällskapet, 'Regeringen tillsätter en oberoende utredning av medicinska åldersbedömningar', 2019, available in Swedish at: <https://bit.ly/2Gdbdtw>.

¹¹³ Sveriges television, "Åldersbedömningar splittrar regeringen – utredning dröjer", 1 March 2020, available in Swedish at: <https://bit.ly/3cFpYma>.

¹¹⁴ ECRE, 'Sweden: Case against the State on Medical Age Assessment Before Chancellor of Justice', available at: <https://bit.ly/3aJJ7Sx>.

¹¹⁵ Information provided by the Migration Agency, August 2017.

Examples of measures taken given in the standard developed by the then Quality Assurance Unit of the Migration Agency on 25 September 2017 include: prolonging the procedure to allow time for the applicant to put forward his or her claims; choosing a suitable residence for the applicant; 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.¹¹⁶ This is not always done even though an applicant hands in a medical certificate in the original from her home country written in English describing her injuries and the kind of torture she was subjected to.¹¹⁷

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. Applicants who are mentally handicapped and unable to act as a legally competent person must have a guardian appointed by the County Court. No investigation shall take place until such a person has been appointed.¹¹⁸ If special reports are needed to verify trauma of various kinds, the Migration Agency can grant an extension of the normal procedure time to accommodate this need and to collect additional documentation. Sometimes the applicant is not given enough time to do so.

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 Migration Agency, Swedish Red Cross and UNHCR, saw a need to do so.¹¹⁹

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

¹¹⁶ Migration Agency, *Kvalitetschefens instruktion om standard för dokumentation av särskilda behov*, I-78/2017, 25 September 2017.

¹¹⁷ A Zimbabwean case known to the author and where a decision is expected soon at the appeal level.

¹¹⁸ Migration Agency, *Rättsligt ställningstagande angående handläggning av psykiskt funktionshindrades vuxnas ansökningar om uppehållstillstånd när det gäller förordnande av förvaltare eller god man (Legal Counsel's Legal position on processing of applications submitted by mentally disabled adults and with regard to appointment of legal representatives or legal guardians)*, 16 February 2012, RCI 05/2012, available at: <http://bit.ly/1mzE6Dr>.

¹¹⁹ 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>.

The Aliens Act does not contain any guidelines for medical examinations and there are no routine or standard procedures to refer victims of trauma to a medical examination. The matter is under investigation by the Migration Agency but so far there are no institutionalised procedures. However, the Migration Agency does have a standard form for medical reports,¹²⁰ but not specifically for medico-legal certificates. The latter usually follow the Istanbul Protocol.

The Swedish asylum procedure operates on the principle that any evidence can be admitted in support of an asylum claim. Therefore, the law does not expressly refer to the possibility of a medical certificate in support of the applicant's statement regarding past persecution or serious harm. As a result of the *R.C. v. Sweden* ruling of the European Court of Human Rights (ECtHR),¹²¹ however, Sweden has been reminded of the obligation on its authorities to carry out a medical examination if there is an indication from an initial non-expert medical report that the applicant could have been a victim of torture.

The Migration Court of Appeal specified the investigative duty of the migration authorities in a case concerning a Moroccan applicant in September 2014, and confirmed the principles of *R.C. v. Sweden*. The applicant had a certificate from a general practitioner in his home country indicating injuries from torture.¹²²

In such a case, the Migration Agency or the Migration Court is obliged to request an expert medical examination of the person, based on the Istanbul Protocol, and to pay for those costs. The certificate has to be formulated in accordance with the rules of the National Social Welfare Board and be signed by an expert in the field. Medical reports may also be requested and submitted by the asylum seeker or their legal counsel at any stage of the procedure. If the medical report plays an important role in the outcome of the case, then the costs may be reimbursed by the Court or the Migration Agency. In 2012, the then Migration Agency published guideline notes drafted by its Legal Unit, outlining when medical reports should be requested by the authority e.g. when there is evidence of torture.¹²³ These guidelines state that where asylum seekers invoke injuries resulting from having been subjected to torture or other egregious treatment on the basis of which international protection can be granted and submit a medical certificate in support, the latter should be paid out of public funds. Exceptions may be made in cases where:

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

There have been some instances in 2016 of applicants who have themselves or through the lawyer stated that they are victims of torture but a full investigation was denied, because in the *R.C.* case a non-specialist medical report had been handed in, which should have signalled to the authorities that a deeper investigation needed to be made. However, since no such certificate was handed in, the Agency refused to instigate an expert examination. It has proven difficult to get general practitioners to write formal certificates and express an opinion on the results of torture since they are aware that they are not specialists. If the Migration Agency finds that further investigation of the physical and/or psychological damage should not be at public expenditure, the applicant should be given reasonable time to submit

¹²⁰ Migration Agency, *Utlåtande från läkare vid prövning av hälsotillstånd i ärenden om uppehållstillstånd eller verkställighetshinder*, available in Swedish at: <https://bit.ly/2GCAwFm>.

¹²¹ ECtHR, *R.C. v. Sweden*, Application No 41827/07, 9 June 2010.

¹²² Migration Court of Appeal, MIG 2014:21, UM3739-14, 23 September 2014, available at: <http://bit.ly/2jPcQ5f>.

¹²³ Migration Agency, *Rättsligt ställningstagande angående medicinska utredningar av åberopade skador (Legal guidance on medical investigations and reported trauma)*, 5 July 2012, RCI 20/2012, available at: <http://bit.ly/1QWNxI6>.

further investigations at their own expense. This can be done through specialist institutions and through the Swedish Red Cross Treatment Centre for persons affected by war and torture. The Swedish Red Cross has highlighted in a 2014 report the lack of access to proper investigation in situations where an asylum seeker claims he or she has been subject to torture.¹²⁴

As a consequence of the ECtHR ruling in *Paposhvili v Belgium*,¹²⁵ in the European Court of Human Rights the Migration Agency issued legal guidance on 11 October 2018 on assessing medical grounds that can come within the scope of Article 3 ECHR. 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.
- Factors that are important in the assessment are the state of health, the availability of adequate and appropriate home care, social networking and the general situation in the home country. An overall assessment must be made.
- 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.

There is currently a case pending against Sweden in Strasbourg concerning this issue.¹²⁶

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.¹²⁷

The Parliamentary Ombudsman (JO) has criticised the Committee of Chief Guardians in **Uppsala** for its handling of a case concerning the termination of the guardianship of an unaccompanied child. The Committee terminated guardianship after the Migration Agency had assessed the child to be over the age of 18, while according to JO it should have carried out its own independent age assessment (see [Identification](#)).¹²⁸

¹²⁴ Swedish Red Cross, *Tortyrskador i asylprocessen under lupp. Hur värderas tortyrskador i den svenska asylprocessen*, 2014, available at: <http://bit.ly/1GjCgNH>.

¹²⁵ ECtHR, *Paposhvili v. Belgium*, Application No 41738/10, Judgment of 13 December 2016, EDAL, available at: <https://bit.ly/2UR2eXM>.

¹²⁶ ECtHR, *Obinna Ibe v. Sweden*, Application No 50586/18, Communicated 13 March 2019. The case concerns the deportation of a Nigerian man after the rejection of his asylum application in Sweden. The applicant suffers from chronic kidney failure and is in need of dialysis. He claims that he would be exposed to Article 3 risk upon return to Nigeria, as he would not be able to afford access to adequate medical care there.

¹²⁷ Lag (2005:429) om god man för ensamkommande barn, available at: <http://bit.ly/2CP4Pnq>.

¹²⁸ JO, 6894-2016, cited in the Annual Report 2016/2017, available at: <http://bit.ly/2ttzvek>.

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. Currently, there are no available statistics on the average number of children represented per guardian.

No differences are made between Dublin cases, manifestly unfounded cases or regular procedure cases regarding the right to a guardian. Every unaccompanied child is assigned a guardian but, should an age assessment lead to the person being considered an adult, the assignment ceases 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.¹²⁹

The number of unaccompanied minors seeking asylum has plummeted from around 34,000 in 2015 to 1,336 in 2017 to 944 in 2018 and totalled 902 in 2019:

Unaccompanied asylum-seeking children: 2019	
Country of origin	Number of applicants
Syria	151
Morocco	125
Somalia	124
Afghanistan	121
Eritrea	38
Other	343
Total	902

Source: Migration Agency.

E. Subsequent applications

Indicators: Subsequent Applications

- Does the law provide for a specific procedure for subsequent applications? ☒ Yes ☐ No
- Is a removal order suspended during the examination of a first subsequent application?
 - ❖ At first instance Depending on the grounds raised
 - ❖ At the appeal stage Depending on the grounds raised
- Is a removal order suspended during the examination of a second, third, subsequent application?
 - ❖ At first instance ☐ Yes ☒ No
 - ❖ At the appeal stage ☐ Yes ☒ No

When an asylum application has been rejected and the decision is final and non-appealable, there is a possibility for newly arising circumstances to be considered under the grounds of “impediments to

¹²⁹ Administrative Court of Gothenburg, Decision 4737-15, 28 June 2016, available at: <http://bit.ly/2HQqBdV>.

enforcement". Such new circumstances may give rise to a residence permit on humanitarian grounds or practical obstacles to removal,¹³⁰ or, if such a permit cannot be granted, lead to a re-examination of the initial case.¹³¹

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];¹³²
- (2) there is reason to assume that the intended country of return will not be willing to accept the alien; or
- (3) there are medical or other special grounds why the order should not be enforced".

If the impediment is only temporary, the Agency may grant a temporary residence permit or order the suspension of the removal order. Where the impediment is of a "lasting nature", however, a permanent residence permit may be granted.¹³³ 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];¹³⁴ and
- (2) these circumstances could not previously have been invoked by the alien or the alien shows a valid excuse for not previously having invoked these circumstances".

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

Much-needed guidance on the interpretation of the requirement of a valid reason was handed down by the Migration Court of Appeal on 10 April 2019.¹³⁵ The Court concluded that if it is considered that there are reasonable grounds to assume that a foreigner in the country to which expulsion has been ordered would be in danger of being punished with death or being subjected to corporal punishment, torture or other inhuman or degrading treatment or punishment, it is not required that the applicant shows a valid reason in order for a subsequent application to be admitted.

Where these two cumulative criteria are met, and if a residence permit on humanitarian grounds cannot be granted, the Migration Agency must re-examine the case. *Sur place* reasons such as conversion to a new religion after a final decision can be grounds for reopening the case if there is a risk of persecution in the home country. However, the Migration Agency has no discretion to re-examine the application where these conditions are not met.¹³⁶

Section 19 therefore concerns new grounds for international protection and not humanitarian grounds or practical problems in enforcing expulsion. Accordingly, a negative decision on a subsequent application may be appealed. Submissions are made in writing and an oral hearing rarely takes place. There is no

¹³⁰ Ch. 12, Section 18 Aliens Act.

¹³¹ Ch. 12, Section 19 Aliens Act.

¹³² Ch. 12, Sections 1-2 Aliens Act.

¹³³ Ch. 12, Section 18 Aliens Act.

¹³⁴ Ch. 12, Sections 1-2 Aliens Act.

¹³⁵ Migration Court of Appeal, UM 12194-18, MIG 2019:5, 10 April 2019, available at: <https://bit.ly/2XBNzg0>.

¹³⁶ Ch. 12, Section 19 Aliens Act.

limitation in the number of subsequent applications that can be submitted, insofar as new grounds for protection are presented.

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

Decisions made either not to grant re-examination, or to refuse a subsequent application on the merits, can be appealed to the Migration Court and further to the Migration Court of Appeal. A separate decision to stay the removal order must be made by the Court to prevent the expulsion order from being carried out in the meantime. An appeal must be lodged within the normal time limit of 3 weeks following receipt of the negative decision.

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 2019, 12,298 subsequent applications were submitted. Out of 12,836 decisions on subsequent applications, 482 were accepted on international protection grounds and 478 on humanitarian grounds or the right to study at senior secondary level. The main countries of origin of subsequent applicants were Afghanistan (3,299); Iraq (2,098); Stateless (585); Somalia (339); Iran (456); Palestine (300); Albania (222); Lebanon (240); Ukraine (166) and Russia (182).

F. The safe country concepts

Indicators: Safe Country Concepts

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

1. Safe country of origin

The safe country of origin concept is not applicable in Sweden. It is worth noting, however, that applications from specific countries of origin such as the Western Balkan states are treated as "manifestly unfounded" claims (see section on [Differential Treatment of Specific Nationalities in the Procedure](#)). The Migration Agency has also dedicated a specific procedural track, "Track 4B", to persons coming from nationalities with recognition rates below 20%, and whose claims may be processed faster.

As Sweden has no list of safe countries of origin, the CJEU clarified in *A v Migrationsverket* in July 2018 that the Migration Agency cannot reject an application as manifestly unfounded on that basis (see [Accelerated Procedure](#)). On 19 June 2019, the government ordered an investigation regarding the possibility to introduce a list of safe countries of origin. A government memorandum was published on 30

January 2020, which outlined the legislative changes necessary to achieve that aim.¹³⁷ The government has expressed as a goal to implement the required legislative changes during the fall of 2020.

2. Safe third country

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

2.1. Safety criteria

Chapter 5, Section 1b(3) of the Aliens Act provides that an application may be dismissed if the applicant can be returned to a country where he or she:

- Does not risk being subjected to persecution;
- Does not risk suffering the death penalty or being subjected to corporal punishment, torture or other inhuman or degrading treatment or punishment;
- Is protected against being sent on to a country where he or she does not have equivalent protection,
- Has the opportunity to apply for protection as a refugee.

In a legal opinion issued in December 2018, the Migration Agency provides details on the application of the safe third country concept. The opinion details that the possibility to apply for refugee status in a third country should not only exist formally but also be observed in practice. Accordingly, the country must fulfil the requirements of a fair asylum system, effective remedies, and protection from removal where risks of *refoulement* are invoked, on the basis of available country information.¹³⁸

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:¹³⁹

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

The legal opinion issued by the Migration Agency in December 2018 clarifies that, for the safe third country concept to be applied, the applicant must hold stronger ties to the third country concerned than to Sweden. Stay in the third country is not required.¹⁴⁰ Examples of reasonable connection include marriage with a citizen of the country.¹⁴¹

¹³⁷ Ministry of Justice and Migration, Uppenbart ogrundade ansökningar och fastställande av säkra ursprungsländer Ds 2020:2, 30 January 2020, available in Swedish at: <https://bit.ly/3b4MpkN>.

¹³⁸ Migration Agency, *Rättsligt ställningstagande angående avvisning av ansökan om uppehållstillstånd med stöd av 5 kap. 1 b § utlänningslagen*, 44/2018, 6 December 2018, available in Swedish at: <https://bit.ly/2L00rv8>, 7.

¹³⁹ 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>.

¹⁴⁰ Migration Agency, *Rättsligt ställningstagande angående avvisning av ansökan om uppehållstillstånd med stöd av 5 kap. 1 b § utlänningslagen*, 44/2018, 6 December 2018, 7.

¹⁴¹ Migration Court of Appeal, UM 8098-16, MIG 2017:13, 22 June 2017, available at: <https://bit.ly/2DwrZC6>.

3. First country of asylum

The concept of first country of asylum is a ground for inadmissibility (see [Admissibility Procedure](#)).¹⁴² A country can be considered to be a first country of asylum for a particular applicant for asylum if:

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

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

In a legal opinion issued in December 2018, the Migration Agency provides details on the application of the first country of asylum concept. It notes that refugee status in another country must be valid and that entry to that country is possible at the time the Agency takes a decision on the application in Sweden. More importantly, the Migration Agency considers that the requirement of protection from *refoulement* renders it difficult to apply the first country of asylum concept to statuses other than refugee status.¹⁴³

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

1. Provision of information on the procedure

Indicators: Information on the Procedure

1. Is sufficient information provided to asylum seekers on the procedures, their rights and obligations in practice? ☐ Yes ☒ With difficulty ☐ No

- ❖ Is tailored information provided to unaccompanied children? ☒ Yes ☐ No

The official language of Sweden is Swedish and all official decisions and judgments are written in Swedish. The 1994 Ordinance on the Reception of Asylum Seekers states that the Migration Agency must inform the applicants of UNHCR and NGOs that provide services to asylum seekers.¹⁴⁴ 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,¹⁴⁵ and occasionally in printed form or in booklets at reception centres. Special efforts have been made to take into account the needs of information of illiterate persons by frequently using audio-visual methods. Furthermore, there are videos providing information in sign languages. Also, the website enables persons to have the text read out to them in Swedish or English. There are plans to make this service available even in other languages, notably Somali.

The Agency has also produced material for children both unaccompanied and in families, explaining to them the asylum procedure in seven different languages.¹⁴⁶ 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.¹⁴⁷ There is also written information in up to 25 languages corresponding to languages understood by the main nationalities of asylum seekers

¹⁴² Ch. 5, Section 1b(2) Aliens Act.

¹⁴³ Migration Agency, *Rättsligt ställningstagande angående avvisning av ansökan om uppehållstillstånd med stöd av 5 kap. 1 b § utlänningslagen*, 44/2018, 6 December 2018, available in Swedish at: <https://bit.ly/2L00rv8>, 5 et seq.

¹⁴⁴ Section 2a Ordinance on the reception of asylum seekers.

¹⁴⁵ Migration Agency, *Protection and Asylum in Sweden*, available at: <http://bit.ly/1sHzLfA>.

¹⁴⁶ Migration Agency, *For Children*, available at: <http://bit.ly/1Feg3vm>.

¹⁴⁷ Migration Agency, *Alla filmer på alla språk*, available at: <https://bit.ly/2W4Axay>.

arriving in Sweden in recent years (Syria, Somalia, Eritrea, Kosovo, Afghanistan, Iraq, Albania, Serbia, Ukraine, Egypt, Pakistan, Mongolia, Russia, Georgia, Ukraine, Nigeria, Turkey, Ethiopia, Morocco, Azerbaijan and Iran).¹⁴⁸

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,¹⁴⁹ as well as on Dublin procedures followed after a country other than Sweden has been deemed responsible.¹⁵⁰ There is also a specific leaflet for unaccompanied minors regarding the Dublin Regulation, as per Article 4(3) of the Dublin III Regulation.

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

Information is also provided by NGOs, notably in this field by the Swedish Network of Refugee Support groups (FARR), which publishes on its website an 88-page booklet entitled *Goda Råd* (Good Advice), updated in January 2018.¹⁵¹ This information on the entirety of the procedure focuses on what asylum seekers can do themselves to contribute to a fair process and contains links to other NGOs in Sweden. This information is available and can be downloaded in English, Swedish, Arabic, Russian, Spanish and Persian. The Swedish Refugee Advice Centre and the Swedish Office of Amnesty International also provide online information in a number of languages which is of relevance to asylum seekers. The Church of Sweden has online information about asylum and migration issues on its website under the heading [Support Migration](#), currently only in Swedish.

Information is also available at the detention centres to which UNHCR and NGOs have access. All detention centres have computers available with internet access for all detainees. Legal counsels also have an obligation to provide information on the asylum procedures to the client. A number of NGOs visit detention centres on a regular basis and are involved in a dialogue with the Migration Agency regarding the scope and routines for offering this service.

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

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

¹⁴⁸ Migration Agency, *Other languages*, available at: <https://bit.ly/2vkhMnH>.

¹⁴⁹ Migration Agency, *"I have asked for asylum in the EU – which country will handle my claim?"*, available at: <http://bit.ly/1PSuhgz>.

¹⁵⁰ Migration Agency, *"I am in the Dublin procedure – what does this mean?"*, available at: <http://bit.ly/1LRjmgH>.

¹⁵¹ FARR, *Good Advice for Asylum Seekers in Sweden*, January 2018, available at: <http://bit.ly/2nWWrwK>.

The [Swedish Red Cross](#) offers information and legal advice support on asylum and family reunification cases through a free-of-charge number (020-415 000). If deemed a prioritised case, applicants can book an appointment to see a case worker or a lawyer. Swedish Red Cross lawyers, based in **Stockholm**, **Malmö** and **Gothenburg**, sometimes act as legal counsel, mostly in cases within Red Cross prioritised areas such as family reunification, need of protection due to risk of torture or gender persecution.

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

There are some refugee groups that have formed their own organisations to support asylum seekers. One is the Swedish branch of the International Federation of Iranian Refugees (IFRS). Unaccompanied children have also organised themselves in two different associations which provide advice and support to newly arrived unaccompanied children.¹⁵² A third organisation called [Ung i Sverige](#) (Young in Sweden) was formed in 2017 which organised a series of protests and sit-ins in central areas of **Stockholm** against deportations to Afghanistan but also raised other issues relevant to the situation of unaccompanied children such as finding appropriate housing for young asylum applicants who were judged as being over 18 and forced out of their accommodation to live in a town very distant from their current school. The spokesperson for this movement, a young Afghan woman named Fatemeh Khavari, has received a number of awards for her courage and leadership.

H. Differential treatment of specific nationalities in the procedure

Indicators: Treatment of Specific Nationalities

1. Are applications from specific nationalities considered manifestly well-founded? ☒ Yes ☐ No
❖ If yes, specify which: Syria, Eritrea
2. Are applications from specific nationalities considered manifestly unfounded?¹⁵³ ☒ Yes ☐ No
❖ If yes, specify which:

Sweden is one of the main destinations of Syrian asylum seekers. In 2019, out of a total of 21,958 applicants, 2,647 came from Syria; 975 from Georgia; 1,054 from Iraq; 766 from Eritrea; 808 were stateless, 825 from Afghanistan and 755 from Somalia.

The recognition rate at first instance was 35% in 2019, down from 39% in 2018. The Migration Courts approved 17% of appeals in 2019, up from 12% in 2018.

According to the Migration Agency, the recognition rate for **Syrians** for 2019 at first instance was 97%. 1,995 Syrians were granted protection, which in the clear majority of cases was subsidiary protection. For **Eritrea** the recognition rate was 91% (same recognition rate as 2018) with 715 permits granted. For **Afghanistan** 45% with 429 permits granted. **Stateless** applicants were granted asylum in 60% of cases with 480 permits granted. **Somali** recognition rates were 47% with 291 cases approved. Recognition rates for **Iraq** were 24% with 305 cases approved. For **Iran** the rates are 38% with 424 cases approved.

¹⁵² <http://www.sef-riks.se/> and <http://ensamkommandesforbund.se/>.

¹⁵³ Whether under the “safe country of origin” concept or otherwise.

Applicants from countries with a recognition rate below 20% have their cases treated under the accelerated procedure ("Track 4B") even if they are individually assessed. Decision-making resources are diverted to this group when there is a large influx of applicants in order not to miss the 3-month time limit for dealing with a case as manifestly unfounded (see section on [Accelerated Procedure](#)). Even though Sweden only registers the nationality of asylum seekers and not their ethnicity, many asylum seekers in this group are of Roma origin. Similar procedures are followed with regard to asylum applications from Mongolia.

Reception Conditions

A. Access and forms of reception conditions

1. Criteria and restrictions to access reception conditions

Indicators: Criteria and Restrictions to Reception Conditions

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

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

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

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

In Sweden, all asylum applicants used to have access to the benefits of the reception system, giving them the possibility to access housing and a daily allowance. If they have resources, they are required to use these first, as the provision of reception conditions is conditional upon lack of sufficient resources. At the lodging of the asylum application, the Migration Agency reception officer enquires about the applicant's financial situation.¹⁵⁴

Daily allowance should only be paid to a foreigner who does not have his own funds. An individual assessment must be made. If the alien has or obtains 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. Also the foreigner's ability to use any assets that exist in another country for their daily life should be taken into account. In other words, needs testing shall take into account such income from gainful employment or other income or own assets or own resources which the alien himself has at his disposal. Such an individual needs test is a prerequisite for the application of the provisions on reduction of the daily allowance.¹⁵⁵

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.¹⁵⁶ 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.¹⁵⁷

Subsequent applicants who are adults are not able to get subsidised health care or medicines. Although they always the right to emergency health care (health care that cannot be deferred, maternal healthcare, healthcare related to abortion and health care in relation to contraception).¹⁵⁸ If subsequent applicants are

¹⁵⁴ Section 17, Law on Reception of Asylum Seekers and Others, 1994:137.

¹⁵⁵ Section 15, Law on Reception of Asylum Seekers and Others, 1994:137.

¹⁵⁶ Sections 11-12a, Law on Reception of Asylum Seekers and Others, 1994:137.

¹⁵⁷ Sections 11, Law on Reception of Asylum Seekers and Others, 1994:137.

¹⁵⁸ 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).

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.¹⁵⁹

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 2019 (in original currency and in €): 2,130 SEK / €204.46

Housing

Housing offered by the Migration Agency is either in an apartment, in a normal housing area or at a reception centre, although ordinary apartments is usually the Migration Agency's primary option for accommodating asylum seekers.¹⁶⁰ Asylum seekers can choose to live at a centre but in that case they might need to move to a town where the Migration Agency can offer them a place. There are differences in the way material reception conditions are provided depending on the procedure ("track") in which asylum seekers are in. For applicants in the [Dublin](#) procedure ("Track 5A") and the [Accelerated Procedure](#) ("Track 4"), for example, accommodation is located close to airports, with the aim of speeding up potential removal from Sweden.

For decades, the general Swedish approach to accommodating asylum seekers has been based on a dispersal or solidarity principle where the "whole of Sweden" model is at the forefront. This means that every municipality is expected to be ready to accommodate asylum seekers. To facilitate this, each County Administrative Board encourages municipalities to sign agreements with the Migration Agency. The majority of municipalities have done so and the recalcitrant ones have been chastised in some contexts. The government is considering whether to make the reception of asylum seekers mandatory, as it already is for the reception of unaccompanied minors. Such a proposal has not been presented yet, however the reception of asylum seekers granted permission to stay has been made mandatory by law in all municipalities.¹⁶¹

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

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

¹⁵⁹ Sections 11-12a, Law on Reception of Asylum Seekers and Others, 1994:137. Swedish Red Cross, *Consequences of the amendment to Sweden's Reception of Asylum Seekers Act*, 2016, available in Swedish at: <http://bit.ly/2Fw1wr7>; VSIU, *Report about Legal Uncertainties in the Asylum Process For Unaccompanied Minors in Sweden*, 26 February 2018, available at: <http://bit.ly/2FEuiD2>; *Rapport om rättsosäkerhet i asylprocessen för ensamkommande barn och unga*, September 2017, available in Swedish at: <http://bit.ly/2C5QySC>.

¹⁶⁰ Migration Agency, Housing for asylum-seekers, available in Swedish at: <https://bit.ly/3fquSpf>.

¹⁶¹ Lag (2016:38) om mottagande av vissa nyanlända invandrare för bosättning, Official Journal 2016:38.

Financial allowance

The monthly amounts of financial allowances differ for applicants staying in accommodation centres where food is provided free of charge (and the allowance only covers pocket money), and applicants staying in other accommodation, where the allowance should also cover food.

In any event, beyond food, the allowance should be able to cover clothes and shoes, medical care and medicine, dental care, toiletries, other consumables and leisure activities. If asylum seekers are granted a daily allowance by the Migration Agency, they receive a bank card where the money is deposited.

The levels of financial allowance per day for 2019 are as follows:

Category of applicant	Allowance in accommodation centres with food provided	Allowance in private accommodation
Single adult	24 SEK / €2.30	71 SEK / €6.82
Adults sharing accommodation	19 SEK / €1.82 per person	61 SEK / €5.86 per person
Child aged 0-3	12 SEK / €1.15	37 SEK / €3.55
Child aged 4-10	12 SEK / €1.15	43 SEK / €4.13
Child aged 11-17	12 SEK / €1.15	50 SEK / €4.80

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 to no avail.

Asylum seekers can apply for extra allowances for expenses that are necessary for a minimum living standard, such as cost of winter clothing, glasses, supplements, handicap equipment and infant equipment. The sums are not enough to buy new products only second-hand or used. This special contribution may in some cases be submitted for charges for medical, pharmaceutical and dental costs, which are partly subsidised.

It is noted that the allowance for asylum seekers is considerably lower than the allowance for Swedish nationals in need of social assistance, which covers similar areas of support. The following table relating to the amount of the monthly social welfare allowance as of January 2019 illustrates this difference:

Category	Asylum seekers	Nationals on social welfare
Single adult	2,130 SEK / €204.46	4,080 SEK / €391.64
2 adults	3,660 SEK / € 351.32	6,670 SEK / €640.25
1 adult 1 child (aged 2)	3,240 SEK / €311	6,570 SEK / €630.65
1 adult 2 children (aged 2-5)	4,530 SEK / €434.83	9,230 SEK / €885.98
2 adults 2 children (aged 5-12)	6,160 SEK / €591.29	12,960 SEK / €1,244
2 adults 3 children (aged 2-5-12)	7,020 SEK / €673.84	15,580 SEK / €1,495.51
2 adults 4 children (aged 12-14-15-17)	8,160 SEK / €783.27	22,260 SEK / €2,136

Sources: National Social Welfare Board, 1 January 2018; Migration Agency.

3. Reduction and withdrawal of material reception conditions

Indicators: Reduction or Withdrawal of Reception Conditions

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

Under the Law on the Reception of Asylum Seekers (LMA), reductions in the asylum seeker's allowance can be made for adults if they refuse to cooperate in the asylum procedure or refuse to respect an expulsion order.¹⁶² Lack of cooperation may consist e.g. in refusing to take measures to obtain identity documents or refusing to appear at arranged appointments with the Migration Agency. Such a restriction of material reception conditions is not permitted in respect of children, however.

Asylum seekers have the right to appeal these decisions to the County Administrative Court, however appeals are almost always rejected. These reductions are phased and amount initially to 35-40% of the allowance as indicated in the section on [Forms and Levels of Material Reception Conditions](#). Some people whom Sweden is unable to expel can live at this level for many years. Currently, there are 19,168 persons with legally enforceable removal orders registered with the Migration Agency and who had not absconded in this situation. They also lose the right to work after a final decision is taken on their case.

According to the LMA the right to aid 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.¹⁶³ However, according to Section 11 LMA, if a deportation decision is not practically enforceable and the applicant has cooperated to the furthest extent possible, then there could be an exemption from the removal of aid. This always applies if there are minor children in the household but the level of support for the adults is in any case also when such exemption is granted, reduced from 61 SEK a day to 42 SEK. However, if the family goes into hiding or leaves the reception system then no allowance is paid.

As stated above, a decision by the Migration Agency to cease aid may be appealed to the Administrative Court.¹⁶⁴ 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 avoid deportation falls under the scope of the LMA-regime and therefore does not have the right to any social- or emergency aid according to the Social Services Act. According to the Court this applies even though the person's current situation is such that they de facto cannot obtain any aid according to LMA. Keeping in mind that it is very hard to meet the cooperation criteria the decision basically excludes all absconded families from any social aid at all.¹⁶⁵

In June 2018, the Supreme Administrative Court decided on social aid for an irregularly residing migrant who had never been subject to the LMA regime. In this case, according to the court, applicants in an irregular position such as this have the right to emergency aid, and in extraordinary situations the aid can exceed that. In this case, such an extraordinary situation existed since the applicant could not be deported because he was subject to forensic psychiatric care, a penalty due to criminal activity. Since deportation was not an option under these circumstances this led the court to conclude that the applicant should be

¹⁶² Section 10, Law on Reception of Asylum Seekers and Others, 1994:137.

¹⁶³ Section 11, Law on Reception of Asylum Seekers and Others, 1994:137.

¹⁶⁴ Section 22, Law on Reception of Asylum Seekers and Others, 1994:137.

¹⁶⁵ Högsta Förvaltningsdomstolens Dom, Decision 1527–1529-16, 5 June 2017, available in Swedish at: <http://bit.ly/2Ts9HD>.

treated in the same way as applicants who had been granted residence permits with regard to the Social service Act.¹⁶⁶

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.¹⁶⁷

4. Freedom of movement

Indicators: Freedom of Movement

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

There are no restrictions in law or practice to the freedom of movement of asylum seekers within Sweden. However, if accommodation is requested from the Migration Agency, asylum seekers are not free to choose their place of residence. The assignment to a place of residence is not made on the basis of a formal administrative decision.

A law was introduced in 2016 so that all municipalities would have to accept persons living in Migration Agency accommodation who have a residence permit.¹⁶⁸ All municipalities are also obliged to house unaccompanied children. This eased some of the pressure on the Migration Agency to find suitable solutions. The government provided extra funding to municipalities in relation to the number of asylum seekers and recognised claimants they had living there. The education system also received extra governmental funding to cope with the high number of children that had arrived in 2015 and early 2016 and who have a right to education.

Asylum seekers are in many cases forced to relocate to reception centres in other cities, not without protests in some cases when people are uprooted once again after settling in a community.¹⁶⁹

¹⁶⁶ Högsta Förvaltningsdomstolens Dom, Decision 4464-17 and 6418-17, 11 June 2018, available in Swedish at: <http://bit.ly/2JBZk3P>.

¹⁶⁷ Administrative Court of Appeal of Sweden, UM 4419-19.

¹⁶⁸ Lag (2016:38) om mottagande av vissa nyanlända invandrare för bosättning, Official Journal 2016:38.

¹⁶⁹ Mitti Hela Stockholm, 'Barn demonstrerar för att få stanna i Täby', 13 June 2017, available in Swedish at: <http://bit.ly/2GIkzBG>.

B. Housing

1. Types of accommodation

Indicators: Types of Accommodation¹⁷⁰

1. Number of municipalities with reception centres:¹⁷¹
2. Total number of places in reception centres: 20,332
3. Total number of persons in reception centres: 16,739
4. Total number of persons in private accommodation: 22,350
5. Total number of persons in other forms¹⁷² of accommodation: 1,223
6. Type of accommodation most frequently used in a regular procedure:
☒ Reception centre ☐ Hotel or hostel ☐ Emergency shelter ☒ Private housing ☐ Other
7. Type of accommodation most frequently used in an accelerated procedure:
☒ Reception centre ☒ Hotel or hostel ☐ Emergency shelter ☐ Private housing ☐ Other

Housing offered by the Migration Agency is either in an apartment, in a normal housing area or at a centre. Asylum seekers can choose to live at a centre but in that case they will need to move to a town where the Migration Agency can offer them a place. Asylum seekers may also choose to opt for private accommodation with friends or relatives. However, the Migration Agency can only influence matters concerning the accommodation they themselves provide since they hold the contracts for the flats and can make demands on the owners regarding material conditions.

The total number of asylum seekers registered in the reception system at the end of 2019 was 40,312 (down from 52,565 in 2018), of which 16,739 were living in Migration Agency accommodation, 22,350 in private accommodation and 1,223 in other forms of accommodation.¹⁷³

The preferred forms of accommodation for housing asylum seekers are individual flats which are rented in most municipalities working with the Migration Agency in Sweden.

The continuing drop of asylum seekers in the reception system has led to further reductions in the number of places in Migration Agency accommodation to 20,332 places by the end of 2019. This number has been steadily reduced over the past years: from 76,721 places in 2016 to 47,034 places in 2017, and to 26,307 places in 2018. By the end of 2019, 16,739 persons were staying in the available 20,332 places.¹⁷⁴

The Migration Agency also operates “transit centres” for persons who have agreed to voluntary departure to the home country or Dublin cases. There are four facilities established in **Åby** (193 placed there at year-end) in **Malmö** (99 placed there at year end) **Gothenburg** (no figures available) and **Knivsta** (317 placed there at year-end). The facility in **Åby** has a capacity of 193 places housed in a former detention centre. People are free to come and go in day time but must report back by night. If persons change their mind about voluntary departure their case is handed over to the police.¹⁷⁵

¹⁷⁰ Figures as of the end of 2019. See: Migration Agency, *Annual Report 2019*, available in Swedish at: <http://bit.ly/382Zbh6>, 62-65.

¹⁷¹ Both permanent and for first arrivals. This refers to the number of municipalities where the Migration Agency rents flats or other accommodation.

¹⁷² This includes privately placed unaccompanied minors, youth in care arrangements, persons in criminal detention and others.

¹⁷³ Migration Agency, *Annual Report 2019*, p. 62, available in Swedish at: <http://bit.ly/382Zbh6>.

¹⁷⁴ Migration Agency, *Annual Report 2019*, p. 62 and 65, available in Swedish at: <http://bit.ly/382Zbh6>.

¹⁷⁵ Migration Agency, ‘Snabbare och enklare utresor via utreseboenden’, 1 January 2017, available in Swedish at: <https://bit.ly/2GjzRpM>.

2. Conditions in reception facilities

Indicators: Conditions in Reception Facilities

1. Are there instances of asylum seekers not having access to reception accommodation because of a shortage of places? ☐ Yes ☒ No
2. What is the average length of stay of asylum seekers in the reception centres? 872 days
3. Are unaccompanied children ever accommodated with adults in practice? ☐ Yes ☒ No

Asylum seekers are mainly accommodated in private houses and apartments rented by the Migration Agency or provided by private 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 the reception centres and for supervising the accommodation they provide in ordinary flats in regular residential areas and to assist asylum seekers. The ordinary rules for the number of persons per room do not apply to asylum seekers, so more people can live in a 3-room flat than is regularly the case when municipal authorities designate accommodation for citizens.

While there are no reports on restrictions on leisure or religious activities, there are also complaints about the lack of organised activities during the asylum procedure. In some centres, *pro bono* organisations offer different activities and opportunities to learn Swedish in informal ways. The government has 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.

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

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

Average duration of stay in reception system: 2019	
Category of applicant	Average stay (days)
Persons returning voluntarily	545
Persons forcibly removed	1,086
Persons absconding	713
Persons granted permits	819
Total average	872

Source: Migration Agency.

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
1 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 he or she has received a refusal of entry decision with immediate effect, including if he or she falls within a Dublin procedure or has a claim considered manifestly unfounded.

This right lasts until a final decision on their asylum application is taken, including during appeals procedures, and can extend beyond that if the applicant cooperates in preparations to leave the country voluntarily. If the applicant refuses to cooperate and the case is handed over to the police for expulsion procedures, then the right to work is discontinued.¹⁷⁶

In 2018 a total 11,651 asylum applicants were granted the right to seek work. 4,110 women of whom 625 were Syrian nationals 413 Iranian, 321 Iraqi 156 Afghan and 151 Georgians were allowed to look for paid work or unpaid work experience whereas 7,541 men of whom 1,243 were Afghan nationals, 654 Iraqis, 544 Syrians, 516 Iranian and 399 Georgians had the same possibility. Statistics are not currently available showing their actual participation in the labour market. By way of comparison, 15,552 work permits were issued by Sweden in 2017.¹⁷⁷ At the time of writing (March 2020) no information for 2019 was available.

The Migration Agency no longer administers work experience opportunities for asylum seekers as from 1 January 2017. Concern has been raised *inter alia* by the Swedish Association of Local Authorities and Regions (*Sveriges Kommuner och Landsting*, SKL) about the fact that those employers having the opportunity to offer internships and work experience placements will have no authority as counterpart.¹⁷⁸ However, the right to work remains for those granted permission to do so. A few municipalities have offered to pay the work insurance that the Migration Agency previously paid in order to facilitate entry to the labour market in cases where an asylum seeker has been able to secure a job offer or work experience placement. However, the main work experience placements will instead be reserved for those with residence permits who are in an establishment programme run by the Employment Agency (*Arbetsförmedlingen*).

Asylum seekers can generally not work in areas that require certified skills such as in the health care sector, so their choice is limited in practice to the unskilled sector. Jobs are not easy to get because of

¹⁷⁶ Migration Agency, *Handbok i Migrationsrätt*, section AT-UND, 5.

¹⁷⁷ Migration Agency, *Annual Report 2017*, 72.

¹⁷⁸ SKL, 'Migrationsverkets ansvar för praktik för asylsökande upphör', 21 December 2016, available in Swedish at: <http://bit.ly/2FBUIde>.

language requirements and the general labour market situation with high youth unemployment and a general unemployment rate of 6,8% in 2019.¹⁷⁹ Should an asylum seeker obtain a job offer at another place in Sweden, then they can move there and get nominal support towards living costs of 350 SEK (€40) for a single person and 850 SEK (€100) for a family. Those who obtain jobs are able to improve their economic situation and possibly to switch from being an asylum seeker to a labour market migrant if they manage to work 4 months before the decision to reject their asylum application becomes final. If their employer is at that stage able to offer a 1-year contract or longer, then they must apply for permission to work in Sweden within 2 weeks from the date on which the decision to reject their asylum application became final. A successful applicant must have a valid passport and will receive a temporary permit of at least 1 year and at most 2, which can be renewed. After 4 years on temporary permits, a person who still has a job can then apply for a permanent residence permit, provided he or she has sufficient means to support and accommodate his or her family. These temporary permits allow for family reunification and the right of the spouse to work but do not require sufficient income to support and accommodate the family.¹⁸⁰

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

2. Access to education

Indicators: Access to Education

- | | |
|--|---|
| 1. Does the law provide for access to education for asylum-seeking children? | <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.¹⁸¹

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 access to secondary education.

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

With entry into force of the temporary law in 2016, access to upper secondary school education was reduced. Since amendments to the law that entered into force in June 2017 and again in July 2018, there are, however, possibilities to get a residence permit allowing applicants to continue their studies.¹⁸² There

¹⁷⁹ The Government Agency Statistics Sweden, available in Swedish at: <http://bit.ly/2v5GWdu>.

¹⁸⁰ Chapter 5 Section 15 a Aliens Act, Chapter 4 Section 4 a Aliens Ordinance.

¹⁸¹ Swedish Parliament, *Betänkande 2012/13:UbU12 Utbildning för barn som vistas i landet utan tillstånd*, available at: <http://bit.ly/1GfU4uO>.

¹⁸² Migration Agency, 'Frågor och svar om uppehållstillstånd för gymnasie studier', available in Swedish at: <https://bit.ly/2GnP2l1>.

are many factors that affect whether the person may get a residence permit for upper secondary education studies. The rules are different for asylum seekers and for people with a temporary residence permit that they wish to extend. The rules also vary depending on whether the person is an unaccompanied child, whether he or she is studying on a national program or on an induction programme, and in some cases on the date the first application for asylum was received, the duration of the processing time of the asylum application at first instance and whether the asylum seeker was considered to be an adult or a child at the date of the first instance decision.

The duration of the residence permit depends *inter alia* on the length of the course and whether it is a national or induction programme. A residence permit can be granted for 4 years or 13 months. The applicant can also get a residence permit that is valid for 6 months after the course is completed. The amendment is not only applicable to unaccompanied children; young persons coming to Sweden together with their families may also apply for a residence permit on the grounds of their upper secondary school studies. It also applies to people over the age of 18 but under 25.¹⁸³

There have been criticisms pointing out that very few people match all criteria to be granted residence permit on this ground.¹⁸⁴ On 1 July 2018, a new legislation was introduced which made it easier to be granted residence permit to finish secondary education for persons who: (i) had applied for asylum before 24 November 2015, (ii) had been considered as minors when applying for asylum, (iii) had a processing time of at least 15 months at first instance and (iv) had turned 18 when the expulsion decision was ordered.¹⁸⁵ By August 2019, 7,303 persons have been granted residence permits based on this provision.¹⁸⁶

D. Health care

Indicators: Health Care

1. Is access to emergency healthcare for asylum seekers guaranteed in national legislation?
☒ Yes ☐ No
2. Do asylum seekers have adequate access to health care in practice?
☐ Yes ☒ Limited ☐ No
3. Is specialised treatment for victims of torture or traumatised asylum seekers available in practice?
☐ Yes ☒ Limited ☐ No
4. If material conditions are reduced or withdrawn, are asylum seekers still given access to health care?
☐ Yes ☒ Limited ☐ No

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

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

Every asylum seeker has the right to a free medical examination. They are entitled to emergency or urgent medical and dental care. The local county council decides on what kind of care that includes. They are

¹⁸³ FARR, 'Uppehållstillstånd för gymnasister - Hur funkade det?', 14 June 2017, available in Swedish at: <https://bit.ly/2Glul3N>.

¹⁸⁴ Swedish Television, 'Migrationsverket: "Gymnasielagen ingen räddning"', 6 October 2017, available in Swedish at: <http://bit.ly/2GpkjBC>.

¹⁸⁵ Section 16 f, Law on temporary limitations to the possibility of being granted a residence permit in Sweden.

¹⁸⁶ Swedish Red Cross, *Mitt liv räknas*, February 2020, available in Swedish at: <https://bit.ly/2A8rFdX>.

also entitled to gynaecological and prenatal care, as well as care in accordance with the Swedish Communicable Diseases Act. After the entry into force of amendments to the law in 2017, persons with a final order to leave have the right to health care and medicine only in urgent cases.¹⁸⁷ However, the Migration Agency does not provide any financial assistance for health care or medicine in these cases, nor can the LMA card be used to obtain subsidies in doctor's visits.

Children and teenage asylum seekers under 18 are entitled to the same health care as all other children living in the county council area where they are seeking treatment.¹⁸⁸

Asylum seekers holding an LMA card pay 50 SEK (€4.80) to see a doctor at the district health centre or to receive medical care after obtaining a referral. Other medical care, such as with a nurse or physical therapist, costs 25 SEK (€2.30) per visit. Medical transportation costs €4,80. The fee for emergency care at a hospital varies from county to county. Visits after referral to other health care providers such as nurses, physiotherapists or counsellors cost 25 SEK (€2.30).¹⁸⁹

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

If an asylum seeker pays more than 400 SEK (€38.00), medical transportation and prescription drugs within 6 months, they can apply for a special allowance. The Migration Agency can compensate for costs over 400 SEK. The "400 SEK rule" applies individually for adults and common for siblings under 18. Dental and emergency hospital care are not covered.

E. Special reception needs of vulnerable groups

Indicators: Special Reception Needs

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

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

The needs of vulnerable asylum seekers are taken into account in designating suitable accommodation and where needed they are placed in the vicinity of institutions that can provide expert care.

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

The standards set out the following:

"Initial assessment: Prior to initial placement in the Migration Agency's accommodation, the Agency shall ask the applicant if there are any special needs that he or she wishes to invoke before the placement. Where appropriate, the immediate needs are documented in an official

¹⁸⁷ 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).

¹⁸⁸ 1177 Vårdguiden, 'Healthcare in Sweden for asylum-seekers, people with no papers and people in hiding', available at: <http://bit.ly/2GoMC3k>.

¹⁸⁹ *Ibid.*

note. The matter must urgently be referred to team leaders, decision-makers or other designated officer at the unit for assessment. In case the individual needs safe housing suitable accommodation must be booked. The Accommodation Secretariat notes the particular need and takes this into account when designating accommodation.

Assessment during the asylum procedure: If a special need of safe housing arises during the current stay in Sweden this should always be promptly investigated and documented in the minutes or an official note. The case must be presented to the team leaders, decision-makers or other designated officer at the unit to book accommodation for these special needs. In that case the applicant must be relocated. Relocation takes place primarily at accommodation within the region. If a secure existence cannot be provided through redeployment within the region's regular homes the Accommodations Secretariat must be promptly contacted. Contact with the Accommodation Secretariat shall be documented in an official note. The Accommodation Secretariat has the power to place centrally or relocate to safer places regardless of where in the country they have applied or initially been given a place to live in."¹⁹⁰

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

1. Reception of families with children and unaccompanied children

After placement in temporary accommodation, the Migration Agency assigns a municipality that will take care of the unaccompanied child. The municipality is responsible for appointing a guardian and for investigating the child's needs and for taking a decision *inter alia* on placement in suitable accommodation. That can be in a foster home, as well as a home of relatives of the child (if deemed suitable accommodation after investigation). It can also be special accommodation for unaccompanied children. Unaccompanied children are never accommodated with adults.

Municipalities also have the responsibility for meeting the welfare needs of all children and can arrange for them to be sent either alone or with their family to a suitable residence where they can obtain expert help in relation to their problems. Unaccompanied children aged 16 are given a daily allowance of personal needs such as clothes, medicine and leisure activities.

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

2. Reception of LGBTQI persons

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

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

¹⁹⁰ Migration Agency, *Kvalitetschefens instruktion angående standard för boendeplacering av sökanden med särskilda behov*, I-37/2016, 13 June 2016.

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.

With regard to LGBTQI applicants there is a government proposal to strengthen the legal rights of these groups. It is proposed that the Migration Agency to improve its ability to continuously evaluate the quality of the examination of LGBTQI asylum applications; to change the format of the LMA cards issued to asylum seekers so that they do not create obstacles for transgender persons to register; to note in the Authority's register the gender identity of asylum seekers based on self-identification and to ensure safe accommodation for LGBTQI people. In its submission to the government the Swedish Refugee Advice Centre proposed that attention should also be given to improving LGBTQI competence among legal representatives and the vulnerable situation of unaccompanied children making claims based on sexual orientation or gender identity grounds.¹⁹¹ There was no follow-up on this proposal in 2019.

3. Reception of persons with disabilities

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

4. Reception of traumatised persons

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

F. Information for asylum seekers and access to reception centres

1. Provision of information on reception

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

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

¹⁹¹ Swedish Refugee Advice Centre, *Yttrande över "Transpersoner i Sverige – Förslag för stärkt ställning och bättre levnadsvillkor"* SOU 2017:92, March 2017, available in Swedish at: <https://bit.ly/2DT7Zae>.

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 fellow countrymen or other asylum seekers inform each other of more detailed aspects. Each asylum seeker also has access to a reception officer of the Migration Agency who can provide more detailed information. The number of languages documents are available in can vary from 8 up to 21 (information on the bank card). The information on housing is available in Albanian, Arabic, Bosnian, Croatian, Serbian, Persian, Romani, Russian, Somali, and Tigrinya on the website of the Migration Agency.

2. Access to reception centres by third parties

Indicators: Access to Reception Centres

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

Since many asylum seekers live in private flats, there is no problem of access for any interested groups or individuals. Even the new temporary housing buildings are accessible to groups and individuals who wish to make contact. There is frequent involvement by 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 2019:	4,144
2. Number of persons in detention at the end of 2019:	462
3. Number of detention centres:	6
4. Total capacity of detention centres:	528

The majority of detention decisions are taken by the Migration Agency, the Migration Courts or the Police. In some cases, the Swedish Security Service have authority to decide on detention.¹⁹²

The police authority can issue a detention decision before asylum seekers have their asylum case registered at the Migration Agency and also in cases where aliens are present illegally in the country or have been expelled on grounds of criminality and served their sentence but are still in the country.¹⁹³ The Police are also responsible for taking decisions on detention when the Migration Agency has handed over the responsibility for a person's case to them. This happens when the Migration Agency no longer considers that the persons will leave the country on a voluntary basis even though their appeal has been rejected. Normally a rejected asylum seeker has 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.¹⁹⁴ The Migration Courts can issue decisions on detention while dealing with an appeal. If a decision on detention is taken at first instance, the decision can be appealed to the Migration Court of Appeal.¹⁹⁵

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.¹⁹⁶ The police are also allowed to place an alien in detention, even if this is not their formal responsibility, when circumstances so require e.g. if there is a clear risk of an alien disappearing once apprehended. Even the coastguards and customs officers can detain an alien if there is a danger that the alien will go into hiding. However, the detention must be reported immediately to the police, who then take over responsibility.¹⁹⁷

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.¹⁹⁸

In 2019, a total of 4,144 persons were detained, including: 3 children, 3,816 adults of which 358 women and 3,445 men. Of the 4,705 detention decisions, 585 concerned Afghans, 341 Georgians, 327 Iraqis, 294 Albanians, 272 Ukrainians, 219 Moroccans, 206 Serbians, 126 Uzbeks 119 Belarussians and 113 Nigerians.

¹⁹² Ch. 10, Section 13(3) Aliens Act.

¹⁹³ Ch. 10, Sections 13 and 17 Aliens Act.

¹⁹⁴ Ch. 10, Section 14 Aliens Act.

¹⁹⁵ Ch. 10, Section 16 Aliens Act.

¹⁹⁶ Lag (1991:572) om särskild utlänningskontroll.

¹⁹⁷ Ch. 10, Section 17 Aliens Act; Lag (1991:572) om särskild utlänningskontroll.

¹⁹⁸ Ch. 12, Section 14 Aliens Act.

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

Source: Migration Agency.

There were six detention centres in 2019 (**Gävle, Märsta, Flen, Källered, Ljungbyhed Åstorp**) with a total of nine units and an overall capacity of 502 persons.¹⁹⁹

The number of persons detained because of inability to identify themselves is minimal, whereas the number of Dublin detainees who may still have an appeal pending is a little higher. In practice many applicants in Dublin procedures abscond before an attempt to remove takes place.

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.²⁰⁰

B. Legal framework of detention

1. Grounds for detention

Indicators: Grounds for Detention

- In practice, are most asylum seekers detained
 - ❖ on the territory: ☒ Yes ☐ No
 - ❖ at the border: ☐ Yes ☒ No
- Are asylum seekers detained in practice during the Dublin procedure?
 - ☐ Frequently ☒ Rarely ☐ Never
- Are asylum seekers detained during a regular procedure in practice?
 - ☐ Frequently ☒ Rarely ☐ Never

The detention of an alien who is seeking asylum can take place at any time during the asylum procedure and also after the claim has been rejected at the final instance. A person can only be deprived of his or her liberty for a reason set out in law.

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

- (1) His or her identity is unclear upon entry; *and*
- (2) He or she cannot make probable that the identity given to the authorities is correct.

Moreover, an alien may be detained:²⁰¹

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

¹⁹⁹ Migration Agency, *Statistics Unit*

²⁰⁰ Ch. 12, Section 14 Aliens Act

²⁰¹ 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.²⁰²

Detention can be applicable in so called Dublin cases, pursuant to Article 28 of the Dublin III Regulation. The Migration Court of Appeal ruled in 2015 that in Dublin cases, the Aliens Act provisions regarding detention are not applicable. The threshold for when detention can be used according to the Dublin Regulation must be met.²⁰³ 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.²⁰⁴

The Chancellor of Justice (JK), has criticised the Migration Agency in a decision regarding detention. In one case, the decision was made to enforce detention despite the fact that the deportation decision had not won legal force. The Agency was liable to pay compensation.²⁰⁵

The fact that the Migration Agency has been criticised for deficiencies related to a compulsory measure is serious and necessitates close monitoring.

2. Alternatives to detention

Indicators: Alternatives to Detention

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

Supervision is an alternative measure that may be used instead of detention.²⁰⁶ Authorities are obliged to consider other measures, such as 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.²⁰⁷

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.²⁰⁸ 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 2018, a total of 1,156 supervision decisions were taken, of which 226 concerned Afghans, 188 Iraqis, 57 Iranians, 52 Somalis, 42 unknown nationality, 38 Moroccans, 35 stateless persons, 32 Mongolians, 30 Nigerians and 22 Uzbeks. No figures for 2019 were available at the time of writing (March 2020).

²⁰² Ch. 10, Section 1(3) Aliens Act.

²⁰³ Migration Court of Appeal, MIG 2015:5, 3 June 2015, available at: <http://bit.ly/2mzQO8X>.

²⁰⁴ Migration Court of Appeal, MIG 2017:23, 5 December 2017, available at: <http://bit.ly/2FV6IGQ>.

²⁰⁵ JK, 'Kritik mot Migrationsverket p.g.a. felaktigt om beslut av förvar', 4 December 2017, available in Swedish at: <https://bit.ly/2IYR1Nw>.

²⁰⁶ Ch. 10, Section 6 Aliens Act.

²⁰⁷ Swedish Red Cross, *Förvar under lupp*. See also comparative study on use of alternatives to detention, where Sweden was one of the studied countries: Odysseus Network, *Alternatives to immigration and asylum detention in the EU. Time for implementation*, 2015, available at: <http://bit.ly/1JX4hMm>.

²⁰⁸ Ch. 10, Section 8 Aliens Act.

3. Detention of vulnerable applicants

Indicators: Detention of Vulnerable Applicants

1. Are unaccompanied asylum-seeking children detained in practice?
☐ Frequently ☒ Rarely ☐ Never

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

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

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

- (1) "It is probable that the Police will be the authority enforcing the expulsion order or the child will be refused entry with immediate enforcement" *and* "there is an obvious risk that the child will otherwise [abscond] and thereby jeopardise an enforcement that should not be delayed";²⁰⁹ *or*
- (2) For the purpose of enforcing or preparing the enforcement of a refusal of entry or an expulsion order.²¹⁰

In both cases, there is an express condition that alternatives to detention ("supervision") are not deemed sufficient to meet the purpose pursued.²¹¹ Children may not be detained for over 72 hours or, in exceptional circumstances, another 72 hours, hence in total maximum 6 days.²¹² A child cannot be separated from its guardians through the detention of either the guardian or the child.²¹³ Where the child has no guardian in Sweden, detention may only be applied in exceptional circumstances.²¹⁴

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."²¹⁵

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

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? 27.8 days

²⁰⁹ Ch. 10, Section 2(1) Aliens Act.

²¹⁰ Ch. 10, Section 2(2) Aliens Act.

²¹¹ Ch. 10, Section 2(1)(3) and 2(2) Aliens Act.

²¹² Ch. 10, Section 5 Aliens Act.

²¹³ Ch. 10, Section 3 Aliens Act.

²¹⁴ Ch. 10, Section 3 Aliens Act.

²¹⁵ Swedish Red Cross, *Barn i förvar*, November 2018, available in Swedish at: <https://bit.ly/2UBDEFp>.

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.²¹⁶ 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.²¹⁷ Even if there are such exceptional circumstances, the alien is not detained longer than 3 months or, if it is likely that the execution will take longer because of the lack of cooperation by the alien or it takes time to acquire the necessary documents, more than 12 months. The time limits of 3 and 12 months do not apply if the alien is expelled by ordinary courts because of crimes.

The 2-month time limit therefore does not apply to asylum seekers throughout the examination of their claim, unless a deportation order has already been issued against them. Asylum seekers are in principle detained for up to 2 weeks. Moreover, detention for the purposes of investigating the alien's right to remain in Sweden under Ch. 10, Section 1(2)(1) cannot exceed 48 hours.²¹⁸

The average period of detention in 2019 was 27.8 days, down from 29.1 days in 2018. The average length of detention for men was 28.3 days and 21.4 days for women.²¹⁹

C. Detention conditions

1. Place of detention

Indicators: Place of Detention

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

There were six detention centres in 2019 (**Gävle, Märsta, Flen, Kålleröd, Ljungbyhed and Åstorp**) with a total of 16 units and an overall capacity of 528 persons.²²⁰ The places in the detention centres have been close to fully occupied throughout 2019.

These centres can also hold third-country nationals who have never sought asylum but have received an expulsion order on other grounds such as minor crimes or for overstaying.

The detention centres have to take responsibility for all those aliens who have received an expulsion or deportation order. However, persons who have an expulsion order because they committed a serious crime 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.²²¹ However, a child under 18 may never be placed in a prison or in a police holding centre. There are no special detention centres for children.

The placement of asylum seekers and irregular migrants in police custody units and prisons has been criticised by NGOs and the Council of Europe Committee on the Prevention of Torture (CPT).²²² This still occurs but statistics are not currently available on the number of cases where it has happened.

²¹⁶ Ch. 10, Section 4(2) Aliens Act.

²¹⁷ *Ibid.*

²¹⁸ Ch. 10, Section 4(1) Aliens Act.

²¹⁹ Migration Agency, Annual Report 2019, p. 77, available in Swedish at: <http://bit.ly/382Zbh6>.

²²⁰ Migration Agency, Annual Report 2019, p. 77, available in Swedish at: <http://bit.ly/382Zbh6>.

²²¹ Ch. 11, Section 7 Aliens Act.

²²² See Swedish Red Cross, *Förvar under lupp (Detention centres under the magnifying glass)*, May 2012, available at: <http://bit.ly/2mwdDtU>; CPT, *Report sent to the Swedish Government on the visit to Sweden from 9 to 18 June 2009*, 11 December 2009, available at: <http://bit.ly/2mdQ3Qk>.

2. Conditions in detention facilities

Indicators: Conditions in Detention Facilities

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

Chapter 11 of the Aliens Act contains specific rules on how the detention centre should be run. Aliens who are held in detention must be treated humanely and their dignity should be respected.²²³ By humane treatment is meant that: (a) the foreigner is always the focal point and their case must be dealt with in a legally safe and expedient manner; (b) a good relationship must be established between the detainee and the staff from the very outset of the detainee's entry to the premises; (c) the foreigner must be able to feel secure and safe in this exposed situation; and (d) the staff must be sensitive to the needs of the detainee.

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

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

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

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

If deemed necessary to uphold security, a detainee can be confined in their room if this is necessary for the orderly running of the centre and for safety reasons or if the foreigner represents a danger to themselves or to others.²²⁴ Such a decision must be reviewed as often as is required but at least every third day. If the person is a danger to themselves then a medical examination should be promptly ordered. There is no requirement that detention confined to a room at the centre must be tried before removing someone to police custody or to the prison services.

A detainee is not allowed to have alcoholic drinks or other stimulants or any object that can hurt anyone or be to the detriment of the keeping of order at the detention centre.²²⁵ Basically the detainee should be allowed to retain objects of personal value and other belongings. Belts and braces are not normally taken from the detainee nor are objects such as personal cutlery, perfume bottles and deodorants. However the possession of a knife is not allowed. Regarding medicine there are restrictions to possessing a large number of sleeping tablets. Since the staff at the detention do not have medical training it can sometimes be difficult to know what to decide in individual cases. However, they can refer to guidelines issue by the Social Welfare Board.

²²³ Ch. 11, Section 1 Aliens Act.

²²⁴ Ch. 11, Section 7 Aliens Act.

²²⁵ Ch. 11, Section 8 Aliens Act.

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

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

Mail sent to the detainee can sometimes be the object of examination, in which case it should be opened in the presence of the detainee.²²⁶ If the detainee does not consent to the package being opened in their presence then the object should be put aside and not opened. An examination of the contents should not include reading a letter or other written documents. Mail from legal counsel, lawyers, international organs that have the right to receive complaints from individuals or from the UNHCR must not be opened. If it is clear from the weight or thickness of a letter that it only contains written material then it should be handed over to the detainee without any inspection. However if there is a reasonable suspicion that the letter or package contains drugs, alcoholic drinks or dangerous objects then the detainee should be summoned and the object may be inspected. A letter must not be opened or scanned before the detainee gives their permission. If staff suspects that a letter may have passport or other identity document in it they are not allowed to open that mail. The only way the authorities can use their right to take care of a passport is if the detainee shows it to them.

Smart phones are not allowed in detention centres since they can be used to take photos of persons present there. Simpler mobile phones without a camera function can be borrowed from the detention centre. Personal belongings that the detainee cannot have in their room are stored at the detention centre, unless the property is illegal, in which case it is handed over to the police.²²⁷ They can have access to these objects upon leaving the detention centre, as a list needs to be made of all stored objects.

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

All detainees have access to health care at the same level as other applicants, therefore, requiring, regular visits from nurses and doctors.²²⁸ All detainees have access to open air at least 1 hour a day often in a closed courtyard.

In 2011-2012, a project examined the special needs of female detainees and made proposals within the current system to incorporate a gender-friendly approach. A proposal has also been made to set up a

²²⁶ Ch. 11, Section 10 Aliens Act.

²²⁷ Ch. 11, Sections 11-12 Aliens Act.

²²⁸ Ch. 11, Section 5 Aliens Act.

special detention centre for women but no action has been taken so far. Instead special sections of detention centres are reserved for women.

In 2019, the places in the detention centres were close to fully occupied throughout the year.²²⁹ Inspections are carried out in detentions centres in accordance with the Optional Protocol to the Convention against Torture. In Sweden, the designated National Preventive Mechanism (NPM) to carry out the task is the Parliamentary Ombudsman (JO).

Kållerød, Gothenburg: During an inspection in 2018,²³⁰ the Ombudsman (JO) pointed out that routines regarding the removal and placement of disruptive detainees in a police holding were lacking in consistency and poorly motivated. The general impression at the inspection was that the work at the detention centre in many ways works satisfactorily, but that the facility is overcrowded and there are problems with the detainees who have drug addictions. The JO notes some deficiencies, including

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

3. Access to detention facilities

Indicators: Access to Detention Facilities

1. Is access to detention centres allowed to

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

Detainees are allowed visitors and to receive and make phone calls on an unrestricted basis but there can be limitations based on practical reasons regarding the safe running of the detention centre.²³¹ 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

²²⁹ Migration Agency, Annual Report 2019, p. 77, available in Swedish at: <http://bit.ly/382Zbh6>.

²³⁰ JO, *Inspektion av Migrationsverket, förvarsenheten i Kållerød, Göteborg, den 13–14 mars 2018*, available in Swedish at: <http://bit.ly/2JSx7WX>.

²³¹ Ch. 11, Section 4 Aliens Act.

can only be supervised at the request of the detainee or legal counsel. If it is suspected that illegal objects have been handed over to the detainee then the detainee may be bodily searched after the visit. Visits should in general take place privately in a suitable room. If a visit is denied for some reason, the detainee has the right to appeal the decision. If a visitor does not wish to give his or her name then this is not in itself grounds to deny a visit, nor is it in itself sufficient grounds to decide to supervise the visit.

NGOs and UNHCR have unlimited access to detention centres. However as of 2018 NGOs have to designate in advance the persons from their organisation who visit the detention centres. As far as the author is aware, this has not caused any particular issue in practice.

D. Procedural safeguards

1. Judicial review of the detention order

Indicators: Judicial Review of Detention

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

With the exception of 48-hour detention of persons pending investigation on their right to remain in Sweden (see [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.²³² Review of alternatives to detention ("supervision") is carried out within 6 months.²³³

Where time limits are not respected, a decision to detain or hold a person under supervision ceases to be legally binding.²³⁴

Each review of a detention order must be preceded by an oral hearing.²³⁵ This also applies to supervision, unless it appears obvious from the nature of the investigation or other circumstances that no hearing is needed.

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

In October 2019, the Migration Court of Appeal ruled in a detention case, clarifying that the 12 month time limit is the maximum time limit an alien may be held in detention for the purpose of enforcement of a removal order. This applies also to the case where the removal failed and the person is brought back to Sweden and subsequently detained. This cannot be considered as a new detention order and it must thus not exceed 12 months in total.²³⁶

²³² Ch. 10, Section 9(1) Aliens Act.

²³³ Ch. 10, Section 9(2) Aliens Act.

²³⁴ Ch. 10, Section 10 Aliens Act.

²³⁵ Ch. 10, Section 11(1) Aliens Act.

²³⁶ Migration Court of Appeal, MIG 2019:17.

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.²³⁷ Prior to that date, other persons such as a private lawyer, a person with a power of attorney, possibly from an NGO, and the applicant may request a review of the detention order.

A child detained on the basis of the Aliens Act is always appointed a legal counsellor if he or she has no parent in Sweden.²³⁸

E. Differential treatment of specific nationalities in detention

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

²³⁷ Ch. 18, Section 1(1)(4) Aliens Act.

²³⁸ Ch. 10, Section 1(3) Aliens Act.

A. Status and residence

1. Residence permit

Indicators: Residence Permit

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

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

A new system was introduced with the adoption of a temporary law,²³⁹ valid for three years, in July 2016. The law has been prolonged for an additional two year-period from July 2019 to July 2021 as a result of a political agreement between four parliamentary parties. The law limits asylum seekers' possibilities of being granted residence permits and the possibility for the applicant's family to come to Sweden. The government openly admitted that the law was proposed in order to deter asylum seekers from coming to Sweden.²⁴⁰

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

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

Convention refugees are, according to the temporary law, granted a three-year temporary permit with the right to **Family Reunification**. Maintenance and housing requirements have to be met if the application is made more than three months after the reference person has received his/her status. Beneficiaries of **subsidiary protection** are granted an initial period of 13 months temporary residence permit with the same right to family reunification as refugees. During the first three years of the Temporary Law, beneficiaries of subsidiary protection were not entitled to family reunification, but this was reinstated in 2019 when the law was extended for an additional two-year period. The residence permit can be extended another two years if protection grounds persist. The temporary residence permit gives holders the right to live and work in Sweden for the duration of the permit. During that period the person has the same right to medical care as a person with a permanent residence permit.

Persons whose removal would contravene Sweden's international convention-based obligations and who do not qualify for Convention refugee status or subsidiary protection status can be granted an initial temporary permit of thirteen months which can be prolonged for two years if the grounds persist. The circumstances in the case must also be considered as being particularly distressing. 302 first time

²³⁹ Lag om tillfälliga begränsningar av möjligheten att få uppehållstillstånd i Sverige, 2016:752. For a summary in English, see: <https://bit.ly/2U9oUkk>.

²⁴⁰ See e.g. Swedish Government, 'Government proposes measures to create respite for Swedish refugee reception', 24 November 2015, available at: <http://bit.ly/1ILOl9f>.

applicants were granted permits for these reasons in 2019. If such a permit is granted in a subsequent application, then the permit is first granted for thirteen months and then one year at a time subject to the same grounds. Temporary residence permit gives the person the right to live and work in Sweden for thirteen months. During that period they have the same right to medical care as a person with a permanent residence permit. The person's family is eligible for residence permits to join the sponsor in Sweden only in exceptional cases.

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

The vast majority of beneficiaries of international protection applying for a renewal of their temporary residence permits have had it granted. In 2019, the Migration Agency received 36,610 applications and took decisions on 19,951 cases: 18,835 were accepted and only 428 refused. The vast majority of positive decisions concerned Syrians (791 refugees/8,621 beneficiaries of subsidiary protection), Eritreans (748/87) and Iraqis (218/329); Afghans (250/493) and Stateless persons (1,276/160). The average processing time for applications to extend residence permits based on protection status was 69 days in 2019, down from was 122 days in 2018, up from 55 days in 2017.

The average number of days from a first time asylum application to a decision at first instance was 288 days in 2019, a considerable decrease from 507 days in 2018 and 496 days in 2017.

In 2019, the Migration Agency granted 6,540 first time asylum applications, down from 11,217 in 2018, and granted 18,835 applications for extensions of residence permits, up from 10,759 in 2018. The Migration Agency also issued 5,253 permanent residence permits in resettlement cases, compared to 5,207 in 2018.

2. Civil registration

Persons residing in Sweden need to register at the Swedish Population Register.²⁴¹

When a child is born in Sweden, the maternity ward gathers information about the child and parents and sends a notification to the taxation authorities who register the birth and give the child a unique personal identity number which gives access to the welfare system etc.²⁴²

To register an existing marriage that took place outside Sweden, the taxation authorities have to be notified and evidence of the marriage submitted. Marriages that take place in Sweden require that the couple first go through a procedure with the taxation authorities and their country of origin authorities to prove that they are not married to someone else (*hindersprövning*). A certificate from the taxation office has to be shown before any marriage ceremony. The person effecting the marriage ceremony must testify that a marriage took place and fill in the requisite form.²⁴³

Without civil registration a person will have problems with: opening a bank account; working in Sweden; obtaining medical treatment; registering for social insurance; and learning Swedish. Nevertheless, a person who does not have a personal identity programme is allowed to attend language courses if he or she has a right to reside in Sweden.²⁴⁴

²⁴¹ Skatterverket, *Moving to Sweden*, available at: <http://bit.ly/1U1ljcY>.

²⁴² Migration Agency, *Children born in Sweden*, available at: <http://bit.ly/2FbnVt1>.

²⁴³ Embassy of Sweden in London, *Getting married in Sweden*, available at: <http://bit.ly/2BU9veK>.

²⁴⁴ 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>.

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

3. Long-term residence

Applying for long-term residence status was previously not necessary for beneficiaries of international protection since they were granted permanent residence permits until 2016. Moreover, most refugees preferred to apply for citizenship after 4 years of residence rather than applying for long-term residence statuses. However, refugees must also hold a permanent residence permit in order to naturalise. Following the shift to temporary residence permits through the introduction of the Temporary law, obtaining long-term residence status has become an increasingly relevant option as persons obtaining this status also obtain a permanent residence permit in Sweden.²⁴⁵

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 2019:	64,944
3. Number of citizenship through naturalisation in 2019:	41,834

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

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

To become a Swedish citizen, as a rule a person must have lived in Sweden on a long-term basis for a continuous period of five years. Habitual residence means that the person is a long-term resident and intends to remain in Sweden. Whether it is possible to count all the time spent in Sweden as a period of habitual residence depends on the reason why the person settled and the permit he or she has had during his or her time here. The main rule is that time with a residence permit that leads to a permanent residence permit is counted as a period of habitual residence. If the person is **stateless** or a **refugee**, he or she only has to have resided in Sweden for four years.²⁴⁶

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

²⁴⁵ Ch. 5, Section 2 b Aliens Act.

²⁴⁶ Act on Swedish Citizenship, Section 11.

A child can obtain Swedish citizenship through notification by the parent or guardian, if the child has a permanent residence permit and has been residing in Sweden since three years, or two years if the child is stateless.²⁴⁷

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

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

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

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

The Migration Agency registered 91,498 new cases for citizenship in 2019, handed down decisions in 76,232 cases and at year end had a balance of 97,965 cases. Swedish citizenship was granted in 64,944 cases. The majority of cases granted Swedish citizenship were applications from citizens from Syria (29,173), Great Britain 4,577, Afghanistan (4,150), Somalia (3,711) and from stateless persons (3,515). During 2019 the Migration courts changed 9% of the cases that were appealed.²⁴⁸

The average number of days from application to decision at first instance was 348, up from 220 days in 2018, down from 496 days in 2017.

5. Cessation and review of protection status

Indicators: Cessation

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

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

According to Chapter 4, Section 5, a person ceases to be a **refugee** when he or she: (1) has of his or her own free will used the protection of the country of which he or she is a citizen; (2) voluntarily applies for and regains citizenship of said country; (3) applies for and gets citizenship in another country; (4) returns and resides yet again in the country where he or she used to reside. The person also ceases to be a

²⁴⁷ Act on Swedish Citizenship, Section 7.

²⁴⁸ Information obtained from the Swedish National Courts Administration.

refugee (5) when the circumstances in connection with which he or she has been recognised as a refugee have ceased to exist, or have changed to such a degree that protection is no longer required.

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

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

With the shift from permanent to temporary residence permits through the Temporary Law, the questions of cessation and withdrawal of protection status have become much more in focus. The Migration Agency has therefore issued guidance on these topics.²⁴⁹ 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.²⁵⁰

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

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

6. Withdrawal of protection status

Indicators: Withdrawal

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

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

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. 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

²⁴⁹ Migration Agency, *Rättsligt ställningstagande angående förutsättningarna för att återkalla en skyddsstatusförklaring*, SR 19/2018, available in Swedish at: <https://bit.ly/3bDD7w6>.

²⁵⁰ Migration Court of Appeal, MIG 2011:13, 13 June 2011, available at: <http://bit.ly/2n4FaA6>.

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.²⁵¹

It should be further noted that, when it comes to cessation, review or withdrawal of international protection, the Swedish Migration Agency, the Swedish Police and the Swedish Security Services have intensified and formalised their co-operation in order to render more efficient the work of identifying those who should not benefit from international protection. 553 cases regarding residence permits and 436 cases concerning citizenship were referred to the Swedish Security Services during 2019.²⁵²

In 2018, Sweden withdrew international protection status for 162 individuals in 2018. 55 of those concerned were from Syria (14 refugee status, 41 subsidiary protection), 34 from Afghanistan (7 refugee status, 27 subsidiary protection) and 18 from Iraq (14 refugee status and 4 subsidiary protection). Statistics for the year 2019 were not available at the time of writing (March 2020).

B. Family reunification

1. Criteria and conditions

Indicators: Family Reunification

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

1.1. Eligible beneficiaries and family members

As described in [Residence Permit](#), a Temporary law introduced new legislation in 2016 that affects persons' ability to get a residence permit, the length of the residence permit as well as the ability to reunite with their family members. This law has been prolonged a further two years until July 2021. In the meantime a parliamentary commission will address the need for a total overhaul of the Aliens Act.

With the Temporary law, people who are granted a protection status - either the refugee or the subsidiary protection status - have the right to be reunited with their nuclear family. When the Temporary law was first introduced, beneficiaries of subsidiary protection were not entitled to family reunification. However, the extension of the Temporary Law in 2019 removed the ban on family reunification for beneficiaries of the subsidiary protection. This was mainly the result of litigation efforts and the fact that the Migration Court of Appeal ruled in a case that the denial of family reunification for a young Syrian child was in breach of Article 8 of the European Convention on Human Rights (ECHR) and Articles 3, 9 and 10 of the United Nations Convention on the Rights of the child (CRC).²⁵³ The beneficiaries of subsidiary protection who had previously been excluded from family reunification under the Temporary law were given a three month timeline to apply for family reunification without having to meet income and housing requirements.

²⁵¹ Migration Agency, *Rättsligt ställningstagande angående förutsättningarna för att återkalla en skyddsstatusförklaring*, SR 19/2018, available in Swedish at: <https://bit.ly/3bDD7w6>, 18.

²⁵² Migration Agency, *Annual Report 2019*, 19 February 2020.

²⁵³ Migration Court of Appeal, MIG 2018:20.

The beneficiary of international protection must also be regarded as having “well-founded” prospects of being granted a permanent residence permit in order to be entitled to family reunification.²⁵⁴ With the exception of certain cases, e.g. in the case of cessation or withdrawal procedures, the Migration Agency usually considers that most beneficiaries of protection have “well-founded” prospects of being granted such a residence permit in practice.

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

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

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

If the person in Sweden has a permanent residence permit, family reunification can also take place with the person he or she plans to marry or cohabit with in Sweden, subject to income and housing requirements (see below).

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

In 2018, the Swedish Red Cross and the Swedish Refugee Law Center analysed the effects of restrictions to family reunification in respective reports published, from a humanitarian and legal perspective respectively. The Red Cross report showed that both the introduction of temporary residence permits and the restrictions regarding family reunification had a negative impact on mental health and integration.²⁵⁵ The report by the Swedish Refugee Law Center showed *inter alia* difficulties in the application of the law and the possible breach of Article 14 ECHR, in conjunction with Article 8, because of the discrimination faced by beneficiaries of subsidiary protection as they were excluded from family reunification.²⁵⁶

Up until 2018, one of the major obstacles to benefit from family reunification related to the obligation to prove one’s identity, as laid down in law. However this situation has been resolved in 2018. A precedent-setting ruling was handed down by the Migration Appeal Court on 5 March 2018, stating that for **refugees** and their nuclear family the level of proof of identity can be relaxed because it is unreasonable to expect them to approach their national authorities to obtain a passport and thereby endanger the situation of remaining family members in Eritrea.²⁵⁷ It is sufficient in such cases for a DNA test to be taken as a first instance measure. This decision does not apply automatically to beneficiaries of **subsidiary protection** according to the Court and DNA tests are of no help if a couple has no children but are still in a stable relationship. Although detailed statistics or information is not available, this decision is likely to have had a positive impact in practice by allowing families to be reunited.

²⁵⁴ Section 6, Law on temporary restrictions on the possibility of obtaining a residence permit in Sweden. Note that the Swedish translation of “reasonable” in Article 3 of the Family Reunification Directive is equal to “well-founded” rather than reasonable.

²⁵⁵ Swedish Red Cross, Humanitarian consequences of the Temporary Aliens Act, 2018, available in Swedish at: <https://bit.ly/2WaN0fm>. A summary in English available at: <https://bit.ly/2xNPBm8>.

²⁵⁶ Rådgivningsbyrån, ‘Migrationsrättens framtid – en redogörelse för de juridiska riskerna med att förlänga den tillfälliga lagen’, 8 October 2018 available in Swedish at: <http://bit.ly/2HSLqrR>.

²⁵⁷ Migration Court of Appeal, MIG 2018:4, UM-2630-17, 5 March 2018, available at: <http://bit.ly/2FiRNEv>.

1.2. Material requirements and procedure

The temporary law has introduced a tougher maintenance requirement. Everyone who wants to bring their family members to Sweden must be able to support both themselves and their family members and must have a domicile. Refugees whose family applies for family reunification within three months of the sponsor being granted a permit are exempt from this requirement. The combination of strict time limits and high income and housing requirements could also effectively remove refugees' possibility of being reunited with family members.²⁵⁸

As stated on the Migration Agency's website, income and housing requirements are as follows:²⁵⁹

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

For 2020 the standard amount is:

- SEK 5,002/€466 for a single adult
- SEK 8,264/€770 for spouses or partners living together
- SEK 2,654/€247 for children aged 6 years or younger
- SEK 3,055/€285 for children aged 7 years or older

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

44,568 first time applications for family reunification were handed in 2019 and decisions were taken in 43,145 cases. 56% were approved and at year end there were 31,117 pending cases. The average time from application to decision at first instance was 284 days, down from 351 days in 2018. One important reason for the long waiting time, and an obstacle *per se*, is the waiting time at the embassy for interview of applicants. It has also been highlighted *inter alia* by civil society organisations that the difficulties in reaching an embassy or a consulate (due to long distances, security constraints), constitutes serious hindrances to achieving and enjoying family reunification. Sweden has designated Khartoum as an embassy that Syrians may apply from but waiting periods for interviews can be as long as 22 months, while the full procedure may take up to twice as long.

FARR published a critical report on all the challenges of family reunification in November 2018.²⁶⁰ 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.²⁶¹ 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).²⁶² According to information provided by the Commission in February 2020, the Swedish authorities have replied to this

²⁵⁸ NOAS, *Realizing Refugees' Right to Family Unity The challenges to family reunification in Norway, Sweden and Denmark*, 2019, available at: <https://bit.ly/34EmRZ6>, p.13

²⁵⁹ See the official website of the Swedish Migration Agency, available at: <https://bit.ly/3bLI3iu>.

²⁶⁰ FARR, 'När lagen splittrar – En exempelsamling om striden för familjeåterförening' in Artikel 14 #3 2018, available in Swedish at: <http://bit.ly/2CNGeCj>.

²⁶¹ Stockholms Stadsmission, Göteborgs Stadsmission and FARR, Complaint to the European Commission, available at: <http://bit.ly/2Fqclbp>.

²⁶² European Commission, July infringements package: key decisions: <https://bit.ly/2SEFYqs>.

letter and the Commission is examining the reply. The Commission further stated that discussions are ongoing with the competent Swedish authorities on several matters, including exceeded deadlines for processing applications for work and residence permits. The Swedish authorities are reportedly working towards improving the procedures and reducing the processing times.

2. Status and rights of family members

The family members are given a residence permit for reasons of family reunification. When in Sweden, they can apply for status as 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.²⁶³ However, government funding for these costs is not sufficient so currently there is little funding available. For family members of persons with subsidiary protection the Swedish Red Cross has partial funding available but even these resources are strained at present.

C. Movement and mobility

1. Freedom of movement

Persons with a residence permit have freedom of movement across the territory. Unless due to a decision of detention, beneficiaries are not assigned to a specific residence for reasons of public interest or public order. As described in [Reception Conditions: Special Reception Needs](#), there are reception centres with a specific profile (LGBTQI profile, for instance). There are cases where violence and protests have occurred in reception centres between different nationalities but their frequency has dropped since the serious overcrowding that pertained in 2016. Such incidents, when they occur, can result in changes of housing arrangements.

2. Travel documents

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

The travel documents can be issued normally for five years. Unless the person is granted Swedish citizenship in the meantime (see [Naturalisation](#)) he or she will have to apply for a new travel documents after five years.

The travel documents issued to **refugees** are valid for all countries except for their home country. Palestinian refugees under UNRWA protection are granted Refugee Convention travel documents. A total 14,169 travel documents were issued in 2019.

Persons granted **subsidiary protection** can under certain circumstances be granted an Aliens passport. If they possess a valid national passport they are allowed to keep it but if they are unable to acquire or renew a national passport they can apply for an Aliens passport. This is issued for at most five years at a time and is renewable but its validity can be restricted to certain countries after an individual assessment by the Migration Agency. 13,978 such passports were issued in 2019.

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

²⁶³ Förordning (1984:936) om bidrag till flyktingar för kostnader för anhörigas resor till Sverige.

a visa in such a case. Such a notification can be removed should the person provide substantial proof of identity.

Travel document applications are handled by the Swedish Migration Agency.

D. Housing

Indicators: Housing

- | | |
|--|-------------------------|
| 1. For how long are beneficiaries entitled to stay in reception centres? | 2 months ²⁶⁴ |
| 2. Number of beneficiaries staying in reception centres as of 31 December 2019 | 1,120 |

Persons obtaining positive decisions can be placed in municipalities by the Migration Agency based on a quota system. This is described as “settlement” (*Bosättning*). A law was passed in 2016 mandating municipalities to receive those granted residence permits after the asylum procedure.²⁶⁵ 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.²⁶⁶ After that period the responsibility for providing support and housing falls on the municipality.²⁶⁷ 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.

A total of 21,968 persons were assigned to be received in municipalities throughout Sweden after receiving a residence permit, including 4,970 who were resettled, 4,121 who had been staying in reception centres, 4,729 who had been residing in accommodation that they had arranged themselves and 7,289 relatives.²⁶⁸

The average delay between the granting of a permit and moving to municipal housing was 60 days in 2019, down from 153 days in 2018, and just within the two-month deadline for leaving Migration Agency accommodation. A total of 1,120 beneficiaries with residence permits were living in Migration Agency accommodation at the end of 2019.²⁶⁹

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

²⁶⁴ 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>.

²⁶⁵ Lag (2016:38) om mottagande av vissa nyanlända invandrare för bosättning, available at: <http://bit.ly/2mqkzq2>.

²⁶⁶ Section 10, Förordning (2016:39) om mottagande av vissa nyanlända invandrare för bosättning, available in Swedish at: <https://bit.ly/3bfdUXN>.

²⁶⁷ Migration Agency, ‘Bosättning i en kommun’, 20 January 2017, available in Swedish at: <http://bit.ly/2msvG3J>.

²⁶⁸ Migration Agency, Monthly statistical report for December 2019, including year-end numbers.

²⁶⁹ Migration Agency, Monthly statistical report for December 2019, including year-end numbers.

the law.²⁷⁰ This leads to greater insecurity in the integration process and if no other housing is available locally the refugees might have to move to another town.

E. Employment and education

1. Access to the labour market

When a person is granted a residence permit, he or she is entitled to an “Introduction Plan” to plan his or her education and professional development and provide for language training, courses on Swedish society, vocational training and work experience. The Public Employment Service (*Arbetsförmedlingen*) has the responsibility for this for persons between 18 and 64. Help with finding housing is the responsibility of the Migration Agency for those living in their accommodation who are assisted in finding suitable housing in municipalities throughout Sweden.²⁷¹ Those living in private accommodation do not access this assistance. In some cases, refugees arrange a housing contract themselves. It is only when they have a contract that they can begin their introduction programme and get more financial support for the coming 2 years.

The general unemployment rate was 6,8% in 2019²⁷² but when it comes to newly arrived with residence permits, it is higher. It has previously taken up to ten years before half of the new arrivals could establish themselves in the labour market. According to figures from early 2018 this is going much faster. Nearly half, 48.5%, of those who were granted residence permits in 2011 had jobs after five years. Among newly arrived men, 49.3% were in work after three years.²⁷³

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.²⁷⁴ There are requirements regarding proficiency in Swedish and English for higher education studies and other more specific requirements regarding proficiency in other subjects relevant to the course of studies. Fulfilling these requirements can take time and therefore add to the time it takes to obtain full qualifications.

Higher education is financed by student loans with partial grants. Some universities offer fast track courses for those already possessing higher education degrees.²⁷⁵

²⁷⁰ Sabo, ‘Ny dom ger kommun rätt att säga upp nyanländas hyreskontrakt’, 5 April 2018, available in Swedish at: <https://bit.ly/2UwxmH2>.

²⁷¹ Migration Agency, ‘Bosättning i en kommun’, 20 January 2017, available in Swedish at: <http://bit.ly/2msvG3J>.

²⁷² The Government Agency Statistics Sweden, available in Swedish at: <http://bit.ly/2v5GWdu>.

²⁷³ Government, ‘Nyanländas etablering går snabbare’, 31 January 2018, available in Swedish at: <https://bit.ly/2UTd53D>.

²⁷⁴ Centrala studiestödsnämnden, *Refugee – support from CSN*, available at: <http://bit.ly/2msu4Xv>.

²⁷⁵ See e.g. University of Gothenburg, *Education for those with Refugee Background*, available at: <https://bit.ly/2GzloHT>.

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”.²⁷⁶ 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.²⁷⁷

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

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

Persons granted international protection have the right to access part of the Swedish pension system (the so-called general pension) and are treated in the qualification process as if they had been gainfully employed in Sweden since their late teens.²⁷⁸

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.

²⁷⁶ Lag (2010:197) om etableringsinsatser för vissa nyanlända invandrare.

²⁷⁷ Socialtjänstlag (2001:453) Svensk författningssamling. See also Socialstyrelsen, *Social assistance*, available at: <http://bit.ly/2EZiUnZ>.

²⁷⁸ GP, ‘Skral pension för nya svenskar’, 6 September 2015, available in Swedish at: <http://bit.ly/2FAHIFr>.

ANNEX I – Transposition of the CEAS in national legislation

Directives and other instruments transposed into national legislation

Directive	Deadline for transposition	Date of transposition	Official title of corresponding act	Web Link
Directive 2011/95/EU Recast Qualification Directive	21 December 2013	26 November 2014	Law (2013/14: SfU20) amending the Aliens Act	http://bit.ly/2m9WuTs (SE)
Directive 2013/32/EU Recast Asylum Procedures Directive	20 July 2015 Article 31(3)-(5) to be transposed by 20 July 2018	16 December 2016	Law (2016:1243) amending the Aliens Act	http://bit.ly/2kP9vkz (SE)
Directive 2013/33/EU Recast Reception Conditions Directive	20 July 2015	-	No transposition, as the Swedish reception system is deemed in line with recast standards	-
Regulation (EU) No 604/2013 Dublin III Regulation	Directly applicable 20 July 2013	17 June 2014 1 July 2017 (Article 27.3 (c))	Law (2013/14: SfU20) amending the Aliens Act due to the entry into force revised Dublin Regulation Law (2017:523) amending the Aliens Act	http://bit.ly/2m9WuTs (SE) https://bit.ly/2Sh5mZB (SE)

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