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GOOD ADVICE

for **Asylum Seekers** in Sweden

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Editor

Sanna Vestin

Translation

Michael Williams

Layout

Kirsti Haugsand Wennerholm

Cover photo

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GERTRUDE OCH IVAR PHILIPSONS
STIFTELSE



This is FARR

Good Advice for Asylum Seekers in Sweden is produced by The Swedish Network of Refugee Support Groups, FARR. FARR is a non-profit organisation and was founded in 1988. It consists of voluntary groups and individual members around the country. One of FARR's most important tasks is to provide advice and support to you as an asylum seeker.

The first edition of Good Advice was produced in 2007 in cooperation with the Brotherhood Movement – Sweden's Christian social democrats, co-financed by the European Refugee Fund. Since then it has been updated and translated several times, updated 2019 with the support of the Gertrude and Ivar Philipson Foundation.

As a voluntary organisation, FARR cannot change the law or decide how it should be interpreted. However, through Good Advice we want to inform you of your rights and what you can do to affect the outcome of your case.

 For current information, see FARR's website:
www.farr.se



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A long journey has come to its end: two unaccompanied minors from Afghanistan arrive in Malmö.



Despite widespread protests
the Swedish parliament
passed the Limitation Act
leading to a harsher asylum
law in 2016.

LIMITATION ACT

On July 20, 2016, a new law entered into force, the law on temporary restrictions on the ability to obtain a residence permit in Sweden. After prolongation in 2019 the law will apply until 19 July, 2021. Thereafter the law will probably be amended again. The temporary law is part of a package of measures to reduce the number of asylum seekers. The government announced the changes on November 24, 2015.

The most important change is that residence permits given for reasons of asylum must be temporary. The requirements for family reunification are also stricter than in the basic Aliens Act. Asylum seekers who are categorised as "others in need of protection" are not granted a permit and the possibility of being granted a permit on humanitarian grounds (distressing circumstances) is extremely limited.

Learn more about these categories in the coming chapter, "Who has the right to stay in Sweden?"

On June 1, 2017 the Limitation Act was modified with additional sections to allow young persons between 17 and 25 the possibility to obtain a longer permit than they otherwise would

have received under certain circumstances in order to study at senior secondary level.

On July 1, 2018 the law was amended once again so that certain young persons who had received or would later receive a negative decision would be able to obtain a permit to study at senior secondary school or in vocational education. They had to have been registered as unaccompanied minors by 24 November, 2015 at the latest, attended school in Sweden, had to wait at least 15 months for a decision from the Migration Agency (before the Limitation Act entered into force on July 20, 2016) and also deemed to be adults.

The regular Aliens Act is still in force and still applies in all areas which are not affected by the temporary limitation law.

As a consequence of the Limitation Act, FARR updated Good Advice in the summer of 2016. A few other updates were made in 2017 and 2019 as a result of certain changes to the law and the prolongation of the temporary Limitation Act.

🔗 The Aliens Act is available here: http://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/utlanning-slag-2005716_sfs-2005-716

🔗 Limitation Act is available here: http://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/lag-2016752-om-tillfalliga-begransningar-av_sfs-2016-752

WHICH ASYLUM SEEKERS HAVE THE RIGHT TO STAY IN SWEDEN?

Refugees and others in need of protection

According to the Aliens Act there are three categories of individuals who enjoy the right to protection in Sweden; **REFUGEES**, **INDIVIDUALS IN NEED OF SUBSIDIARY PROTECTION** and **INDIVIDUALS OTHERWISE IN NEED OF PROTECTION**.

REFUGEE STATUS

A refugee is defined by the Act as ...

an alien who

is outside the country of the alien's nationality, because he or she feels a well-founded fear of persecution on grounds of race, nationality, religious or political belief, or on grounds of gender, sexual orientation or other membership of a particular social group, and is unable, or because of his or her fear is unwilling, to avail himself or herself of the protection of that country.

Aliens Act chapter 4, section 1

The paragraph is based on the definition of a refugee which can be found in the United Nations Convention on the Legal Status of Refugees, 1951 also referred to as the **GENEVA CONVENTION** or **REFUGEE CONVENTION**.

The definition covers several requirements:

- **that you are outside your country of origin,**
- **that you experience fear, meaning that you are afraid of persecution**
- **that the fear is well-founded – meaning that the danger is real**
- **that the persecution is as a result of certain defined grounds, and**
- **that you cannot get protection in your country of origin.**

You must meet all the above requirements in order to be considered a refugee. The first point is met by you being in Sweden. The term "**WELL-FOUNDED FEAR**" here means that you are afraid of what will happen in the future and that you have real reason to be afraid of this. That it has already happened to you is not determinative, but it can affect the assessment of the degree of risk that you will be exposed to in the future.

PERSECUTION means for example, physical or psychological violence, but also serious discrimination. Refugees can be persecuted for any of the seven grounds that are in the legislation. If you are being persecuted, for some reason that is not explicitly in the definition, you can sometimes be accepted as a refugee because you belong to a particular social group. You may be persecuted because you are perceived to belong to a certain category, even if you in reality do not. For example, a journalist can suffer from persecution because she is assumed to have political opinions when she in reality just writes critical reports.

SUBSIDIARY PROTECTION

Even if you do not qualify as a refugee under the Refugee Convention, you may be in need of protection under the Aliens Act.

You can obtain subsidiary protection if you are not at risk of persecution for any of the reasons enumerated in the refugee clause but there remain substantial grounds to believe that you...

1. (...) upon return to the country of origin, would run a risk of suffering the death penalty or being subjected to corporal punishment, torture or other inhuman or degrading treatment or punishment, or as a civilian would run a serious and personal risk of being harmed by reason of indiscriminate violence resulting from an external or internal armed conflict, and

2. (...) the alien is unable or, because of a risk referred to in point 1, unwilling to avail himself or herself of the protection of the country of origin.

Aliens Act chapter 4, section 2

(Please note that the extract from the Act has been somewhat shortened.) This section is based on the definition contained in the EU directive on grounds for protection.

The granting of a residence permit in accordance with one of the two definitions (refugee or individual eligible for subsidiary protection) is also referred to as **ASYLUM**.

OTHERS IN NEED OF PROTECTION

This category is also mentioned in the Aliens Act. These are persons who have a well-founded fear of being subjected to serious abuses because of an armed conflict or other severe conflicts in the home country or who are unable to return to the country of origin because of an environmental disaster.

This has probably not affected that many applicants since the category had been used increasingly rarely before the temporary law was introduced. Most of those who would have benefitted were classed either as refugees or in need of subsidiary protection.

THE RESPONSIBILITY OF THE STATE

Regardless of the category of protection, you can be threatened either by the state or by somebody else. However, if responsibility for the persecution or abuse lies with a non-state actor you must show that the state is unable or unwilling to offer you protection. You must also be able to show that you cannot obtain protection by moving to another part of your home country than the one you come from. If you have a residence permit in or citizenship of another country where you are not threatened, then Sweden can require you to live there.

If you are **STATELESS** – not a citizen of any country – you may nevertheless need protection against a country in which you have been a resident. You are not, however, entitled to a residence permit in Sweden for the sole reason that you are stateless.

An application for asylum is processed in a certain order. First, the Migration Agency determines whether you meet the criteria to be a refugee.



What is the difference between the various categories of individuals in need of protection?

The refugee paragraph uses the expression “persecution”. Persecution does not exclusively imply threats to life or torture; it may consist in harassment or repeated threats, assaults and various forms of abuse. On the other hand, to be deemed a refugee you must be in danger of persecution for one of the specific reasons enumerated in the paragraph.

The paragraph on persons eligible for subsidiary protection applies to those who face particular kinds of risks, namely the death penalty, corporal punishment, torture or indiscriminate violence

due to an armed conflict. Why someone is exposed to these risks does not matter – no conditions are listed. The paragraph is mainly used for people who have fled war (armed conflicts). If anyone in the area in question is at great risk, showing that you are from there may be enough. Otherwise you need to demonstrate that you as an individual are particularly exposed.

Both categories have the right to a permit but because of the Limitation Act those with subsidiary protection grounds can only receive a shorter permit and have fewer rights.

Read about the Limitation Act on page 11.

If you do, you are entitled to asylum and refugee status. If you do not meet the refugee criteria, the investigation moves on to assess whether you are eligible for subsidiary protection. If not, then other grounds for a residence permit are assessed.

You can be denied refugee status or subsidiary status if you have committed war crimes, crimes against humanity or other serious crimes. Despite this you can still be granted a permit if you risk persecution or for example come from a country that is considered too dangerous. However, the permit is short-term and does not give the right to work.

Both adults and children of whichever gender can need protection. If a family applies for asylum together, the grounds of each individual must be assessed, even those of the children.

[Read further below under “the Asylum Procedure”, on page 36.](#)

Distressing circumstances

You can be allowed to stay in Sweden even if the authorities do not think you need protection. That can happen for example if you are very ill or have lived legally in Sweden for such a long time that it is difficult to return home. Such grounds are in legal language called “distressing circumstances”.

A permit may be granted to an alien...

if on an overall assessment of the alien's situation there are found to be such exceptionally distressing circumstances that he or she should be allowed to stay in Sweden. In making this assessment, the alien's state of health, his or her adaptation to Sweden and his or her situation in the country of origin must be given special attention.

For a child, a permit can be granted in accordance with the first section if the circumstances are particularly distressing.

Aliens Act chapter 5, section 6

The concept "**DISTRESSING CIRCUMSTANCES**" includes your state of health and your general situation in Sweden and an assessment of how your situation would be in the home country. Suffering from a serious illness, having a strong bond to Sweden after many years of work here or schooling, or risking having to live in a refugee camp if you were expelled from Sweden are examples of circumstances which could lead to you being allowed to stay in Sweden according to the regular Aliens Act.

The concept "**EXCEPTIONALLY DISTRESSING**" applies to adults and only applies in exceptional situations. Most of those allowed to stay because of distressing circumstance are families with children or children who sought asylum without any responsible adult (unaccompanied children).

The Limitation Act (temporary law) has limited the possibility of granting permits based on distressing circumstances. Now as well as distressing circumstances it is required that an expulsion would breach an international convention that Sweden must respect.

The international convention that has the greatest importance for this assessment is the **THE EUROPEAN CONVENTION ON HUMAN RIGHTS**. The Convention includes articles that protect persons from inhuman treatment and from being uprooted from their social context if this has been built up over a long time.

Decision makers in Sweden can use judgements from the European Court of Human Rights to interpret the relevance of the European Convention in your case. The European Court of Human Rights is the international court that oversees that the European Convention on Human Rights is properly interpreted. Even other conventions such as **THE UN RIGHTS OF THE CHILD CONVENTION** can be of importance.

With regard to health status – how you feel – the assessments were very strict even before the Limitation Act entered into force. It is not a sufficient reason that the quality of care is not as good in your home country compared with Sweden. You must be able to show that your health would be damaged in a drastic way or that you would die if you were deported.

It has also been very difficult to remain in Sweden because you have adapted to living in the country. There is no rule that says that if you have lived here for a certain length of time that you will be allowed to stay. It has been more common for lengthy periods in Sweden to be taken into consideration for children, but everything depends on individual circumstances. For adults, the only time that is taken into consideration is the time you have been here legally, for example as an asylum seeker, whereas even time without legal stay has been considered for children. Children are considered to have closer ties with Sweden when they are in their teens than when they are very young. It can be important that the child itself says how it became attached to Sweden.

Experiencing a demanding situation in your home country can also include a situation where you are rejected from your social

context or suffer from trauma because you have been tortured or subjected to similar treatment in your home country, or because you are a victim of human trafficking. But this is not in itself sufficient for obtaining a permit during the period the temporary law applies. If you have survived torture you have certain rights that your lawyer can inform you about.

If there are several distressing circumstances they should be jointly considered. However regardless of the circumstances the Limitation Act requires that an expulsion would breach an international convention. This has been very difficult to prove.

The law does not allow the expulsion of a child that does not have orderly reception conditions either through relatives or at a child-care facility. Children who risk being expelled alone have often been granted permits based on distressing circumstances. This still applies to children in the 15-16 age group if it can be proven that they have no one to take care of them. Older children who lack orderly reception are now granted temporary permits until they are 18. This rule was introduced by the Migration Agency and applies even to children not covered by the Limitation Act. Children who cannot prove that they lack orderly reception can be given an expulsion order that can be carried out when they are 18. If the registered age is changed to 18 the expulsion can take place directly.

[Read more about age assessment on p 130.](#)

[Read about the Limitation Act on p 11.](#)

The Duration of a permit

While the Limitation Act is in force most of the permits granted will be temporary.

If you have a permit based on refugee status or subsidiary status you have the right to live and stay in Sweden as long as

the permit is valid. This permit can be renewed if you still have grounds for protection.

 www.migrationsverket.se/Kontakta-oss.html

- **A permit granted to a person with refugee status is usually valid for three years but can be for a shorter period if the person has committed crimes or is considered a security risk.**
- **A permit based on subsidiary grounds or on distressing circumstances is valid normally for 13 months. If it is extended it will be for two years.**
- **A permit granted to a child who cannot be sent back because of lack of reception facilities in the home country is valid normally for twelve months at a time until the child is 18. Unaccompanied children under 16 can be granted a 13-month permit on distressing grounds if it is considered that the situation in the home country will endure for a long time.**

Unaccompanied children and families with children who applied for asylum at the latest on 24 November 2015 are not affected by the Limitation Act's rules and can be granted permanent residence permits (no time limit) on condition that the child is still in Sweden and not 18 years of age when the decision is made.

Unaccompanied children from around 16 years of age that can stay because of the lack of orderly reception in the home country can however be granted a temporary permit even if they are not affected by the Limitation Act.

A permanent residence permit may also be granted if a child received a permit based on distressing circumstances. But then the permit must be based on a serious illness and it must be established that a permanent residence permit is absolutely necessary for the child to recover.

Prolonged permit based on secondary school studies

Youths who study at senior secondary school or choose a vocational programme and who otherwise would only be granted a short-duration permit can under certain conditions obtain a longer permit. This applies if you have been granted or will be granted a permit based on protection grounds, on humanitarian grounds or because no orderly reception can be arranged in your country. You can only benefit from these rules if your permit would either be shorter or expired.

If you study the introduction programme at senior secondary school the permit is for 13 months and can only be renewed once. If you study a senior secondary national programme or a similar one in adult education or at a folk high school you can be granted a permit for the whole length of the programme and an additional six months. If you study a vocational introduction programme at senior secondary school which will lead to you being able to get a job or a complete programme within adult education, you can be granted a permit for the programme and an additional six months. There is a special rule for unaccompanied minors who sought asylum at the latest on November 24, 2015: if you are allowed to stay because there is no orderly reception then you can be granted a permit for four years.

Extension: If you have not completed a national programme or vocational programme when the permit ends you can be given an extended permit for six months after you complete the programme.

Other conditions: You must be between 17 and 25 years old. You must have a study plan from the school when you apply. You must not have committed a crime. Every year you must show you have been actively studying. You cannot get a permit if you have already completed senior secondary school or a vocational programme.

Read about the “senior secondary school law” – permit despite a rejection in certain cases, p 93.

CLOSE RELATIVES

Families have the right to live together based on several international conventions. Even in Swedish law very close family members have the right to be reunited if one of the members has a permit in Sweden. But there are strict rules for when and how the family can be reunited and which family members are taken into consideration.

A family making a joint asylum application

If a family (defined as parents and unmarried children under the age of 18) arrive in Sweden together and any one of the family members is granted a residence permit as needing protection or on other grounds, the whole family may stay. Another adult, who has become the legal guardian of a child, can also be given permission to stay if the child is considered to need protection, and is granted a residence permit.

Family reunification

As long as you are an asylum seeker your family does not have the right to move to you in Sweden unless it can be arranged through the Dublin Regulation. The following rules apply to those who have obtained a residence permit.

A person who is married to or cohabits with someone with a permanent residence in Sweden is entitled to a residence permit in Sweden. This also applies to partners and spouses of the same sex. In other words, if you have a permanent residence permit in Sweden, your partner is also entitled to live here. Your partner also has the right according to the Aliens Act to be granted a permit so that you can get married or co-habit. However, both of you must be over 18 and neither of you can be married to someone else.

Children under 18 with one or both parents resident in Sweden are also entitled to residence permits. It is the children's age at the time the Migration Agency makes its decision that counts. It is also necessary for the child to have lived with the parent at some point and the child must not have a more substantial link to a parent resident in another country.

Parents of unaccompanied children who are granted refugee status or protection on subsidiary grounds also have the right to move to Sweden. But this usually does not apply if the child was allowed to stay because of particularly distressing circumstances. In that case the family is expected to reunite in the home country or the country in which the parents have permission to live.

As long as the Limitation Act is in force asylum seekers will normally only be granted temporary permits. These also limit the right to family reunification.

If you have a temporary permit with refugee status or subsidiary protection you normally have a right to family reunification. You and your partner must both be over 21 and you must have been married or cohabited before you came to Sweden.

Those who applied for asylum after 24 November, 2015 and were granted subsidiary status were not allowed to bring their relatives here when the Limitation Act was introduced. However, from July 20, 2019 they can be granted reunification under the same conditions as convention refugees.

The Migration Agency may also grant residence permits to other close relatives. This can for example be a child over 18. But only a short time must have elapsed since the relatives were separated and they must have lived together until the time they were separated. Moreover, the close relative must also be unable to get support in any other way.

Those who have a temporary permit according to the Limitation Act will, as long as the Act is in force, only be able to be reunited with spouse/ cohabitant and unmarried children under 18 – so no other close relatives can be considered.

According to the temporary law family reunification may be granted even in other cases if it otherwise would be in breach of an international convention that Sweden has ratified to deny reunification. However this is difficult to prove.

The application for family reunification must be handed in in the home country or from a country the relative has the right to be in. It is often quicker to apply via internet but you can also hand in an application at the Swedish embassy or consulate. When a decision is being made the relative does not have the right to be in Sweden.

[Read more about exceptions in the section “Relatives present in Sweden”.](#)

[Read about the Limitation Act on page 11.](#)

PASSPORT REQUIREMENT

In order for the family members to travel to Sweden they must have valid passports and be able to establish their identity. In most cases these conditions are fulfilled by having a national passport. If they do not have national passports they can in exceptional circumstances prove their identity in another manner through certificates or documentation. In such cases Sweden

may also issue aliens passports. Aliens' passports are not, however, granted to individuals who are still in their country of origin. All-in-all, it is very difficult for families to reunite in Sweden if they come from a country without functioning authorities that can issue documents.

If it is completely impossible for the relatives to get identity documents, the Swedish Migration Agency can do a DNA analysis to confirm the biological ties and then make a joint assessment for the whole family. However, the DNA analysis may only be used as long as there are no other doubts in the investigation. For example, if a couple's accounts contradict each other at some point, that may be considered a cause for doubt.

SUBSISTENCE REQUIREMENTS

If you are an adult and live in Sweden the main rule is that you must show that your accommodation is spacious enough and that you can support yourself and your family before your relatives are granted residence permits. These criteria are called subsistence requirements. How many rooms you need depends on the size of the family. Current information on the size of accommodation and income level required can be obtained from the Migration Agency.

Refugees and beneficiaries of subsidiary protection can be excepted from the subsistence requirements if three conditions are met:

- **The application must be handed in within three months of the person in Sweden receiving a permit**
- **You cannot be reunited in any other country**
- **It is an established relationship, for example, been married for at least two years.**

All three requirements must be met to avoid subsistence requirements. If you sought asylum at the earliest on November

25, 2015 and were granted a subsidiary protection permit before July 20, 2019 you did not have the right to family reunification. Therefore the three months will be counted for you from July 20, 2019 to October 19, 2019.

For all relatives that applied for a permit before July 20, 2016 the rules in the basic Aliens Act apply. This means there is no subsistence requirement if the application concerns a child nor if you have refugee status or subsidiary status or have had a permit in Sweden at least four years and now have a permanent residence permit.

 Detailed rules about permits from abroad based on family ties can be found on the Migration Agency website. You will also find forms there. www.migrationsverket.se

Relatives already present in Sweden

If you are in Sweden and apply for a residence permit because you are a relative of a resident, your application is likely to be rejected since it should have been submitted from abroad. An exception can be made if you have a current asylum application lodged with the Swedish Migration Agency, or if you are in Sweden legally with some kind of residence permit (not just as a tourist).

If you apply for asylum whilst your partner and/or child is already resident in Sweden you should mention the relationship in your asylum application. You can also bring it up later in the process if the relationship has arisen during your stay in Sweden.

The Migration Agency may grant a residence permit to a parent whose child is granted asylum, if the parent is also the legal guardian and the two are living together.

The law states that decision-makers should take particular regard to children who could suffer from being separated from their

parent, if such a separation would be lengthy. However, in order to be able to apply from Sweden you must show that there are no doubts that you would have been granted a residence permit from abroad. That means that your application could be denied if you have lived undocumented in Sweden for a long time. You need to provide specific reasons why you cannot travel to your home country, or explain why your child, in particular, would be harmed by the separation. You also must prove your identity with a valid passport in the same way as if you had applied from abroad.

Duration of permits for relatives

- **A permit to move to a person living in Sweden is valid for the same time as that of the person living here if this person obtained a permit based on the Limitation Act**
- **A permit to move to a person living in Sweden is otherwise valid for two years. If it is prolonged, then it can be a permanent permit.**

Permanent residence permits can still be granted for family reunification to spouses/partners who have lived together in the home country/country of residence. This does not apply however if the person has been granted a temporary permit according to the Limitation Act.

Can I as an asylum seeker get married in Sweden?

You can get married or cohabit with your partner while seeking asylum in Sweden. This also applies to same-sex couples.

Before you get married you must go through a special procedure called an “assessment of impediments” (hindersprövning). This means that the authorities examine whether there are any obstacles, for example, that one of you is already married. For this reason, you may need a certificate from your country of origin, for instance from the embassy. The investigation is carried out by the local tax authority and you need to show authentic identity documents, preferably a passport.

You may get married even if your asylum application has been rejected and you are awaiting removal. The ceremony can take place anywhere but it must be performed by a priest or another accredited official in the presence of two witnesses. If you marry according to Islamic tradition you should check with the tax authorities

that the marriage has been registered in Sweden.

My asylum application has been rejected. May I stay with my family in Sweden?

If you have children who are resident in Sweden and there is a risk of lengthy separation from them it is possible that you may be allowed to apply from Sweden, but only under certain conditions – see above under “Relatives staying in Sweden”. Otherwise, the rule is that you should apply from your country of origin – or from another country where you are legally resident.

You need to stay for a while in the country where you submit your application, as you may be called to the Swedish embassy for an interview. It is possible to hand in your application in any country where you have an address, but the embassy does not have to handle your case if you are not allowed to be in that country (or if other Swedish embassies are designated for dealing with such applications).

My partner comes from another European Union country and lives in Sweden. Do I have the right to live in Sweden too?

Yes. If your spouse/registered partner/cohabitant is a citizen of another EU or EEA country and lives and supports himself/herself in Sweden you automatically have the right to live here. This is called a right of residence. You just need to report to the Swedish Migration Agency to obtain a residence card. This also applies to people with dual nationalities, if one of them is from an EU state. Your partner cannot however be a Swedish citizen. You must be able to produce a valid passport.

List of EU/EEA states: page 149.

I want to live with my partner in Sweden, but the Migration Agency first wants to check whether our relationship is serious. How is this done?

If you are not married but are going to be (or if you live together now but did not share a home before you came to Sweden) the Migra-

tion Agency will investigate whether it is a so-called seriously intended relationship. This is called a “seriousness test”. The Migration Agency considers how long you have known each other, whether you speak a common language and what you know about each other. If the Migration Agency believes that there is a risk that one of the partners will be subjected to violence or other serious abuse in the relationship, the request can be refused. In order to see if there is such a risk, the Migration Agency can request information from the police, who keep a register of people suspected of or found guilty of a crime.

If you are married, you will not have to go through a seriousness test. The Migration Agency is not allowed to question your relationship unless there is evidence that it is a sham marriage.

If the one that lives in Sweden has a temporary permit according to the Limitation Act family reunification is not allowed unless you were already married or cohabited before.

The Limitation Act: page 11.

WORK AND STUDYING

The rules for obtaining a residence permit in Sweden to work or study are very different from the rules for asylum seekers. The procedures should not be confused. These rules will still be included here however because some of those who need to seek asylum in Sweden arrive here first after obtaining a work permit. It also happens that people who have been asylum seekers may be offered jobs and need to apply for work permits.

Work permits

To obtain a residence permit because of work, you must have a job offer in Sweden. The work should have been advertised at least ten days across the EU – it should be done through an advertisement in the Employment Service. The work need not be full-time, but the salary is (as of this writing in 2017) to be at least 13,500 per month before tax. The conditions must be approved by the trade union that employers in the sector usually conclude

agreements with. There are also demands on the company's finances, insurances etc.

Current rules for applying for a work permit are available on the Migration Agency's website. There the employer can fill in a form online. The rules are clear, but they must be followed strictly both by you who are seeking work and the employer that hires you.

Once you have got the job offer, you can apply for a work and residence permit. Even this can be done online, but you will also need to visit the Embassy. First- time work permits are not usually issued if you are already in Sweden. You must have a passport valid for the entire duration of the work permit.

If you receive a residence permit for work even your husband / wife and dependent unmarried children(under 21) receive a residence permit for the same period. These family members should apply at the same time as you. The permit is given for the duration of the job offer, but at most for two years.

If you continue to work in Sweden the permit can be extended and eventually become permanent. If you want to extend a temporary work permit, you should apply for it before this before it expires. For the work permit to become permanent, you must have worked legally for a total of four out of seven consecutive years. You are allowed to change employers, but if you do it within the first 24 months you must apply for a new work permit. After 24 months, you only need to apply for a new work permit if you change your profession. If you resign or are laid off from your job, you are entitled to stay in Sweden to look for a new job for three months after your work permit expires.

The Migration Agency can check the pay and employment conditions even after you receive a work permit and may withdraw it if the conditions of the permit are not met.

BUSINESSES – SELF-EMPLOYMENT

You can also obtain a residence permit because you have started or acquired a company that you need to stay in Sweden to be able to manage. The rules for this are also available on the Migration Agency's website. There are requirements on the company's structure, liquidity and future plans. The residence permit must be applied for from your home country or a country where you have the right to stay. You must have a valid passport.

Studies

In order to obtain a residence permit for studies you must have applied and been accepted on a study programme, for example, at a college or university. You will also have to show that you have enough money saved to be able to support yourself during your education. As of writing in 2017 the sum required is 8 064 SEK per month, but if you can show that you get free accommodation and/or food, the amount can be reduced somewhat. If the course lasts less than one year, you also need a comprehensive health insurance. It also costs money to take most courses. There may be scholarships you can apply for.

Student residence permit can be applied for using the forms on the internet, but if you receive a residence permit you must pick it up from an embassy. The permit is limited initially, but can be extended.

Switching tracks

If you have had a temporary residence permit based on marriage, work or study, you can apply for a residence permit for other reasons, for example because you have studied but

now have got a job and started a family in Sweden. Such permits should normally be applied for from abroad. But if you apply before the permit runs out you can request to make the application from Sweden. This can be granted if you have reasons for not leaving Sweden, especially if you have fulfilled the requirements for the earlier permit.

Read about how to apply for a work permit after having your asylum case rejected on p 93.

Read also about permits according to "the secondary school law" on the same page.

🔗 Detailed rules for obtaining a residence permit from abroad for reasons of work or studies are available at the Migration Agency website. There you also find the forms to fill in:
www.migrationsverket.se

2

THE ASYLUM PROCEDURE

THE MIGRATION
AGENCY



APPEAL

THE DECISION
STANDS



REJECTION

APPEAL

The agency
reassesses



APPROVAL

APPLICATION

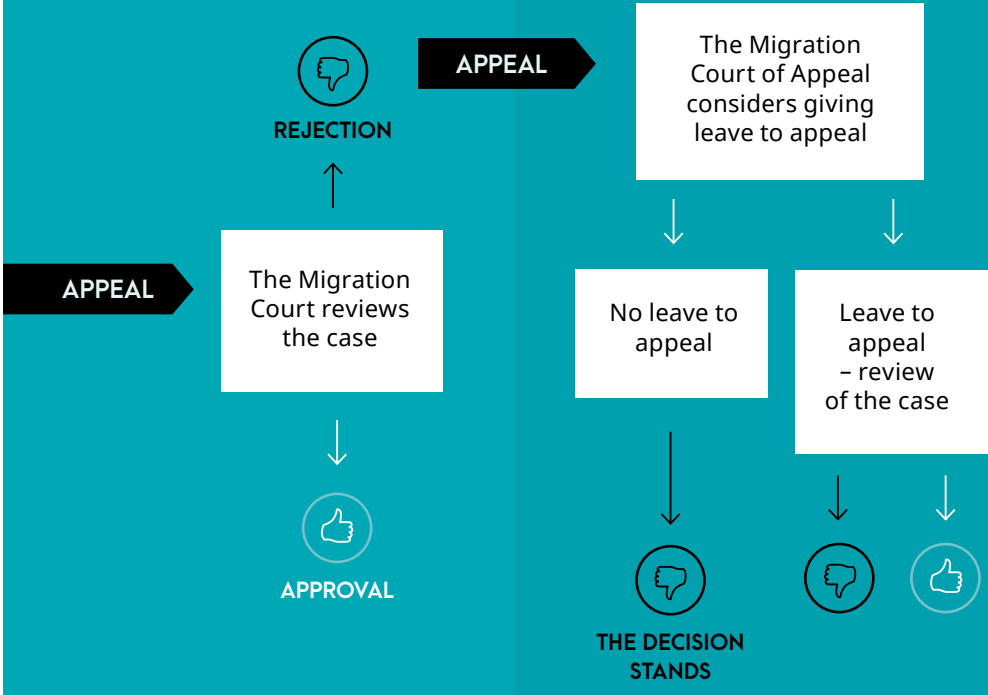
The Migration
Agency
assesses
the claim



APPROVAL

THE MIGRATION COURT

THE MIGRATION COURT OF APPEAL





Migrationsverket

First instance:

THE MIGRATION AGENCY

When you claim asylum in Sweden you will meet the Migration Agency. This is the authority that decides whether you will be granted residency in the country.

You should claim asylum as soon as possible after arriving in Sweden, ideally the same day. If not, the Migration Agency might believe that you are not in urgent need of protection. When you reach the borders of Sweden (including airports) you can say that you wish to claim asylum. You will then be taken to one of the Migration Agency's application centres. These are located for example in Gävle, Gothenburg (Göteborg), Boden, Malmö, Flen, Norrköping and Solna (in Stockholm). The application centres receive your asylum application and take your fingerprints and your picture. They also assess whether you are entitled to the financial aid that asylum seekers can get if you do not have money of your own. Children under 14 do not need to provide fingerprints.

At this first assessment, the Migration Agency will only ask you a few questions about why you wish to claim asylum in Sweden. The information that the case worker is looking for at this first meeting is your name, date of birth, citizenship and language. The Migration Agency will also ask you about your health status and ask whether you want to undergo a voluntary medical check-up. You can say yes to this.

You will be requested to submit your national passport if you have one. If not, the Migration Agency will ask for other identity

documents, such as an ID card, a driver's licence, a military service record, military service card or birth certificate. They will also ask whether you have any specific requests regarding which lawyer you want (**THE PUBLIC COUNSEL** is a lawyer who will assist you free of charge), and if it matters to you whether the person who interviews you or the interpreter is a man or a woman. It may be significant for you which lawyer you get and it may be advisable to choose yourself if you have the possibility. Please contact voluntary associations for information on knowledgeable lawyers.

You may be asked to undergo a **LANGUAGE ANALYSIS** upon your first meeting. The Migration Agency does this to verify that you really come from the place that you claim to be from. A recording of your speech is made, and then a linguistic expert will listen to it and assess where your dialect belongs.

After you have claimed asylum you will be given an ID card called an **LMA CARD**. LMA stands for the law governing the reception of asylum seekers. You will then be offered accommodation. If you do not have money of your own you will be given a **DAILY ALLOWANCE** and financial aid for asylum seekers.

[Read more on page 133 under “Your rights as an asylum seeker”.](#)

Should your claim for asylum be assessed in Sweden?

Upon your first contact with the Migration Agency you will be asked several questions about how you arrived in Sweden. The case worker will want to know when you left your country of origin, exactly from where you left and how you got here. He or she will ask whether you have passed through other countries before arriving here and whether you have tickets for your trip to Sweden. The Migration Agency will then assess whether your asylum claim should be decided here or in another country.

You cannot decide for yourself where to claim asylum. Sweden, the other EU countries, and a few other countries have regulations that determine this. The agreement is called **THE DUBLIN REGULATION** and the countries that have signed it are called **DUBLIN COUNTRIES**. The point is that you should only claim asylum in one of these countries.

HOW THE DUBLIN REGULATION WORKS

The Dublin Regulation is applied in all EU-countries along with Iceland, Liechtenstein, Norway and Switzerland (called Dublin countries) It includes rules which determine which country is responsible for determining an asylum claim. There are different exceptions among others for family reunification. These rules and exceptions are summarised below,

- **If the assessment of your asylum application has already begun in one EU member state, your case should continue to be dealt with in that country.**
- **If you are a child then your application should be processed in the country where your parents, siblings or other relatives are if it is in your best interests.**
- **If you are an adult and your spouse or partner or children are in a Dublin state as asylum seekers and have obtained a residence permit there after being asylum seekers, then you should be able to have your cases decided in the same country. If none of your asylum claims have been processed, then it could be the case that you will be united in the same country where most or the eldest of the family members are.**
- **It is important from the beginning when you are seeking asylum to say you wish to reunite if your family members are in another Dublin country where you want to go. Both adults must sign a form saying that they want to reunite.**
- **If none of this applies to you, you are an adult and your application has not begun to be investigated, then you should**

have your application considered in the Dublin country that has granted you a residence permit or visa so that you could travel into the area. This applies if not more than two years have passed since the permit expired, or six months since the visa expired.

- If you do not have a residence permit or visa your asylum application will be examined in the country where you first entered illegally into the common area. If it is not possible to show where you entered but it is clear that you have been five months illegally in a Dublin country, then the application for asylum is examined there. If there is no such country either, the asylum application must be examined in the country where you filed your application.
- If you arrive in Sweden to apply for asylum but it turns out that your application should be assessed in another Dublin country in accordance with one of these rules, you will be sent to that country. Usually, the evidence consists of fingerprints that you have had to submit in another country along the way.
- If you are under the age of 18 and apply for asylum in Sweden alone, you only have to go back to another Dublin country if your case has already been decided there. That applies whether the decision is positive or negative. Sweden may question your age and decide that you should be considered an adult. Then you may be transferred to the other country even if you have not received a decision there.
- When Sweden comes to the conclusion that a different country is responsible, a request is made to that country. Certain countries do not bother to reply within two months, but that will be understood as an acceptance.
- If your case is being dealt with in accordance with the Dublin Regulation, you are not allowed to work in Sweden and you are not automatically entitled to a lawyer. Most likely you will not get one. Unaccompanied children are an exception – they normally get a lawyer and are always entitled to be aided by a responsible guardian.

[Read more about responsible guardians – see page 129.](#)

COMING TO SWEDEN THROUGH THE DUBLIN REGULATION

If you have a family in Sweden but have already started an asylum procedure in another Dublin country, you can ask for your case to be dealt with by Sweden. The greatest chance of succeeding is if you have parents, a partner or a minor child in Sweden and if the family in Sweden is well-advanced in the asylum procedure or already has permits. Contact the authorities in the country where you are, tell them you have family in Sweden and ask the authorities to request that Sweden takes over your case.

SENT BACK TO SWEDEN THROUGH THE DUBLIN REGULATION

If you have asked for asylum in Sweden but discover that you will have your claim refused you may perhaps wish to try seeking asylum in another country. But once you have started an asylum procedure in Sweden then Sweden becomes the responsible country. This is the case even when you get a final refusal from Sweden. If you try in another Dublin country, then you risk not getting asylum there. All Dublin countries do not interpret the regulation as strictly and it can happen that someone has their case examined there in spite of the fact that asylum was first requested in Sweden. But you cannot count on that. The normal procedure is that you will get a decision to return you to Sweden.

[See list of Dublin countries on page 149.](#)



How can the Migration Agency know where I have been?

All asylum seekers in a Dublin country over the age of 14 must give their fingerprints. The fingerprints are stored in a database called EURODAC. A similar database exists for visas issued. The migration authorities of these countries can search these databases and if you have claimed or been granted asylum in any of these countries it will show up. If this happens, the Migration Agency will try to make you go back there.

Sometimes children under the age of 14 are also forced to provide fingerprints when police or border guards do not believe the age given by the child. It also happens that persons are registered as asylum seekers on entry without their intending to ask for asylum.

If the Migration Agency finds evidence that means

you should be sent to another Dublin country already when you hand in the application, you will be informed of this immediately and be given an opportunity to comment. After that you probably will not be called to another hearing. If the information turns up later on in the procedure you will be informed, then and have the opportunity to present to the Migration Agency any reasons you have for not being sent there.

If the Migration Agency decides to send you to the responsible Dublin country, you may appeal to the Migration Court in your own language.

Read further about appeals on page 63.



Waris, 14 is in Greece waiting to be reunited with relatives in the UK.

Must countries follow the Dublin Regulation?

No. Every country may assess a person's asylum claim if it wants to. The Dublin Regulation also has a special exemption that prohibits transfer to countries where reception and asylum processes have completely collapsed.

What can be considered if an exception is to be made are the reception conditions in the other country and the asylum seeker's personal reasons such as state of health

and connections with a certain country. Sweden has stopped all transfers to Greece for a long time, and also the European Court has ruled against transfers there.

Other exceptions are extremely rare. Sweden believes that it requires very special circumstances to make individual exceptions and assumes generally that asylum seekers are treated in a like manner in all countries covered by the Regulation.



When does a Dublin decision expire?

When the responsible Dublin country agrees to receive an asylum seeker it is called an accept. Once the accept has been given Sweden must transfer – send – the person within six months. This period can be extended to twelve months if the asylum seeker is in prison or to eighteen months if the asylum seeker absconds. If it takes a longer time than

that to transfer then Sweden is responsible for dealing with the application.

If the transfer decision is suspended at any time during the procedure, for example, while you appeal, then the time limit is adjusted from the date when the transfer was temporarily halted. To know exactly what time limit applies in your case it is best to contact the Migration Agency and ask.

🔗 **The Migration Agency:**
www.migrationsverket.se/kontakta-oss.html

If you have a permit in the responsible Dublin country, it does not pay off



A temporary refugee camp in Vasilika, Greece.

generally to wait for the time limit to expire. You will still not be able to re-request asylum if you already have a permit in another Dublin country

If you receive a Dublin decision and are later returned to your home country, you can reapply for asylum in any other Dublin country. After the removal order has been carried out the old decision is no longer valid.

If you leave the Dublin area on your own and also remain outside the Dublin area more than three months your Dublin decision is no longer valid. But you must be able to prove it with documents and the demands on evidence are very high. In this case, you must not have had a chance to ask for asylum in the country you stayed in. Note that on return to the Dublin area you must always arrive directly in the country you seek asylum in to avoid being a Dublin case once again.

How are asylum seekers treated in other Dublin countries?

Asylum seekers are treated differently in different Dublin countries. The differences may concern what rights you have (for example if you have the right to legal counsel), how the asylum process is organized and who is given a permit.

All Dublin countries have promised to respect the Refugee Convention and the EU countries are obliged to observe the same binding regulations and directives in their asylum procedure. However, there are also significant differences in the assistance available to asylum seekers when it comes to housing, economic support etc. during the period the case is processed.

🔗 Find out what rules apply in your country of destination at www.asylumineurope.org

FARR can sometimes help by contacting voluntary organisations in other countries who can provide support and give advice about the asylum process.

🔗 www.farr.se/adresser

Accelerated process for “manifestly unfounded applications”

The Migration Agency may find that your claim is “manifestly unfounded” – meaning that you are obviously not in need of protection. This might be because you are a citizen of an EU country or because the Migration Agency considers it to be self-evident that you lack grounds for asylum.

Typical countries of origin from which applicants often are considered as having manifestly unfounded claims are Kosovo, Serbia and Morocco.

A common reason for Sweden to consider a case as manifestly unfounded is that it considers that the home country has functioning authorities and that the asylum seeker has not first looked for protection in the home country before fleeing to Sweden. If you can demonstrate that it is not self-evident that the authorities would help you or if you are fleeing from the authorities, that should be enough to access a regular asylum procedure.

If your claim is found to be manifestly unfounded the Migration Agency may issue an order called **“REFUSAL OF ENTRY WITH IMMEDIATE ENFORCEMENT”**. This means that you are to be expelled from Sweden and that you have no right to stay Sweden even if you appeal. Unaccompanied children must not however be expelled from Sweden until one week after the child has been informed of the decision. These are priority cases and you will get a decision quickly, roughly as long as a Dublin transfer decision. You do not have a right to a lawyer if your case is considered manifestly unfounded but if you appeal you can ask for one.

[Read about the possibilities to appeal on page 63.](#)

If there is a risk that the Migration Agency will consider your application as manifestly unfounded it is very important that you tell them about the threats against you in as much detail as possible and explain why you are unable to get protection from the authorities.

To obtain help in this process you can engage a private lawyer yourself or contact an NGO.

 See addresses at page www.farr.se/adresser

The Migration Agency must not decide on expulsion or refusal of entry without giving you the opportunity to participate in an oral hearing. This rule also applies to Dublin cases.

Legal counsel

Most asylum seekers have the right to legal counsel. This is a lawyer who helps you with your asylum claim and represents you in contacts with the Migration Agency. You do not need to pay anything for this; the lawyer is paid by the Migration Agency or a Migration Court. The lawyers are not employed or in any other way linked to the Migration Agency. Their role is to represent you as an asylum seeker.

You will not be provided with public counsel...

- **if the Migration Agency considers it to be self-evident that you will be granted a permit in Sweden.**
- **if your asylum claim is not Sweden's responsibility to assess. (Dublin cases sometimes)**
- **if the Migration Agency considers your claim to be manifestly unfounded.**

Otherwise you are provided with public counsel. If a decision is made that a lawyer is not needed, you can appeal that decision. You may request to be represented by a particular lawyer when you meet the Migration Agency for the first time or shortly after that. It could be important that the person is interested in asylum issues and has earlier experience of such cases. If you request a certain representative, the Migration Agency should grant your request unless there are particular reasons against it, such as the lawyer lives too far away from you. For women and LGBTI persons it is advisable to be represented by someone who has worked with women's and LGBTI persons' asylum claims before.

If you do not know of any lawyers, you can contact a refugee support group or other NGOs near you who can give you advice.

MAY I CHANGE LEGAL COUNSEL?

It can be difficult to change your legal counsel and it is more difficult the longer the first lawyer has been working on your case. But if you have especially compelling reasons, for example that a serious conflict has erupted between the two of you, the Migration Agency may let you get a new counsel. If you live closer to the new lawyer you may state this as a reason.

If the Migration Agency will not let you change your lawyer, the decision can be appealed to the Migration Court. If the court rejects your application as well you can change your lawyer anyway, but then you will have to pay for the service yourself. You also have the right to let someone other than your lawyer to speak in your name and work on your case. Such a person is called **A LEGAL REPRESENTATIVE**. All you need to do is give a **POWER OF ATTORNEY** – that is a written permission – to that person.

On page 150 there is an example of a power of attorney.

Such a legal representative can contact authorities and lawyers to get information and act on behalf of your case. Any person can be a legal representative, including a relative, a friend or a member of some voluntary association but it is also an advantage for you if that person understands the asylum procedure and the rules. Your legal representative should co-operate closely with your lawyer and not act without informing the lawyer beforehand.

Asylum assessment

Asylum investigations proceed in different ways. This description is based on what was most common in Sweden during 2017.

When your application for asylum is registered, you will be summoned for an interview with a case worker at the Migration Agency. You are entitled to choose your lawyer. If you do not, the Migration Agency will select a lawyer for you.

If you are granted public counsel the lawyer must always be summoned to the interview regardless of whether you have met before or not. It does happen that an asylum seeker is summoned to an interview without public counsel being present. In that case only formal aspects should be discussed. If you do touch on asylum grounds you can say that you would like to wait until your lawyer is present. Lawyers often meet their clients before the interview, but sometimes asylum seekers meet their lawyer for the first time in connection with the investigation interview at the Migration Agency. It might be a good idea for you to contact your lawyer before the interview if the lawyer does not contact you.

It sometimes happens that the Migration Agency requests a written statement from the lawyer before the interview and then considers that the investigation is over when the interview is concluded. This is not so good because more questions can

arise during the interview that you need to speak about with your lawyer. The best way is to calmly go through your grounds for asylum with your lawyer before you meet at the Migration Agency but also meet again after the interview.

If you have undergone a language test, your lawyer ought to ask for the result, to be able to comment on it.

Your identity will be examined as extensively as possible. It is important to try to obtain identity documents from your native country. These should be in the original, preferably with a photo. If you have fled your country using a fake name and fake documents you must be able to explain why. The Migration Agency frequently checks documents that have been handed in for their authenticity. This can mean that the processing of your cases takes longer.

At the meeting at the Migration Agency an interpreter will attend and your lawyer will assist you. As an asylum seeker, you have a responsibility to point out all the relevant facts of your case at the interview. You have to tell the Migration Agency about everything that has happened to you and all your reasons for seeking protection. That is why it is recommended to meet with the lawyer to go through your grounds for asylum already before the interview. You can record the interview on your own mobile phone if the Migration Agency does not record it.

If you seek asylum together with your family, the grounds for each of you should be described. You should also be interviewed one at a time. The individual protection needs of children must be considered. Note that children can have their own grounds for protection. What is in the best interest of the child should be weighed in at all stages of the asylum procedure. This is stated in the **FIRST CHAPTER OF THE ALIENS ACT**. Children seeking asylum are therefore not just a part of their parents' claim.

[Read more on page 125 under "Children's grounds".](#)

All the papers and information that you want the Migration Agency to have should be handed in at the hearing. If you add things later that you could have disclosed right at the start the Migration Agency might think that you are making things up. Therefore, it is recommended to mention everything from the beginning.

After the interview a written record from the meeting must be sent to the lawyer. You have the opportunity to comment on it and complement it with further information. You and your lawyer must read the record in detail so that you can identify any errors or misunderstandings. This is very important. Ask to have everything read to you in your language! If something is wrong, it may be very difficult to get the Migration Agency to believe you if you give the correct version later. For the same reason it can be a disadvantage to you if the case officer is of the opinion that the investigation is over after the interview. In such a situation, you and your lawyer should ask to see the transcript first. You are entitled to copies of all documents concerning your asylum case. Even if you do not request your own copies, it is very important that you see the content of all written material so that you can correct any mistakes with the help of people you trust.

When the lawyer has transmitted your comments and additions, the Migration Agency can decide on whether to grant you a residence permit. The waiting period varies. Sometimes it takes a few weeks other times many months. Before the Migration Agency makes its decision they will check if you are in the police register of people suspected or guilty of committing a crime. If you are, this can affect your case. A person who has committed serious crimes can be denied residency. Minor crimes can mean that you are granted a shorter temporary residency permit than you would normally have been given. Even minor crimes can tip the balance against residency if the grounds for granting a permit are considered to be relatively weak.

 **Contact the Migration Agency:**
www.migrationsverket.se/kontakta-oss.html

RIGHT TO AN INTERPRETER

You are entitled to the assistance of an interpreter during the asylum procedure. The interpreter may be present or participate via video-link or telephone. As a woman, you may request a female interpreter if you feel that you prefer it. The interpreter must uphold professional confidentiality. In other words, he or she may not tell anyone what you have said. The interpreter should be neutral, not take sides. If you feel that you cannot trust the interpreter, for reasons due to ethnicity, religion, political affiliation or other reasons, you may request to have the interpreter replaced. This also applies if you have difficulties understanding the interpreter. It is important that you and the interpreter can talk to each other without problems.

If your claim is rejected

If your asylum claim is rejected by the Migration Agency, you may appeal the decision to a Migration Court. You have the right to a lawyer even when appealing the decision.

If you do not appeal, then the procedure is over and the decision becomes **LEGALLY ENFORCEABLE**, which means it is final. If you regret that you have appealed, you can contact the Migration Agency and say you want to withdraw your application and **DECLARE YOURSELF SATISFIED WITH THE DECISION**. A declaration of satisfaction cannot be taken back so do not do this without serious consideration.

Go to the next chapter to read about appeals.

If you are granted a residence permit

If you are granted a residence permit based on Refugee Convention grounds it is valid for three years. If you have a permit based on Subsidiary Protection the permit is valid for thirteen months initially. You have the right to live and stay in Sweden as long as the permit is valid. The permit can be renewed if you are unable to return to your home country because you are still in need of protection. Contact the Migration Agency in time before the permit expires and tell them you wish to renew the permit.

If you have a job you can support yourself on you can apply for a permanent residence permit instead of renewing the temporary permit. This only works if your employer pays taxes for you and has reported to the Migration Agency that you work there. If you are under 25 you must also have completed senior secondary school.

When you are granted a permanent residence permit (PUT) you can live in Sweden for as long as you like. This is on condition that you have been granted the permit on genuine grounds and that you do not later commit serious crimes and are sentenced to expulsion. PUT is normally given for five years at a time but is renewed if you continue to live in Sweden. If you leave Sweden for more than one year you risk not having your permit renewed. It can be wise to contact the Migration Agency before you leave Sweden for a longer stay abroad. You may leave Sweden for a total of a year divided over several trips, but if you have been away for one year without returning your residency in Sweden can be considered terminated. If you have been recognized as a refugee or a person otherwise in need of protection you have the right to try to live in a country where you have lived earlier without the permit being withdrawn until two years after your residency in Sweden has ended.

You may have to stay in accommodation run by the Migration Agency for some time after being granted a permit. During this time the Migration Agency should find a municipality for you to move to. If you have been living in your own accommodation you may stay there.

Your residency permit is issued as a card. If you do not have a passport and you can prove that you cannot obtain a new one you may apply for a alien's passport at the Migration Agency. You have to pay for this. If you have been given leave to stay as a convention refugee you are entitled to a special passport called a **TRAVEL DOCUMENT**. The travel document is not valid for trips to your country of origin. The same applies to Alien's passports in most cases.

If you have a permit based on subsidiary grounds you can appeal this status and request refugee status. You have the right to a lawyer to make this appeal.

[Read about family reunification on p 24.](#)

[Read more on how you can influence your case on page 101.](#)

Swedish citizenship

When you have been living in Sweden for five years and have a permanent residence permit you may apply for Swedish citizenship. If you have been granted **CONVENTION STATUS** (that is, have been considered a refugee) or if you are stateless you will only have to wait four years. This time is counted from the day you made your asylum claim – if you were given residency by the Migration Agency or a court in the first procedure. If you are granted residency after a new assessment, that is to say because of impediments to removal, the time is counted from the day of your decision. You might be able to count part of the time that you have spent legally in Sweden before that, but no more than half of it.

Second instance:

THE MIGRATION COURTS

If your application for asylum and residency is rejected by the Migration Agency you may appeal to a Migration Court.

The administrative courts in Malmö, Gothenburg, Stockholm and Luleå serve as Migration Courts. The court usually consists of three **LAY ASSESSORS** and a judge who decide together. The lay assessors are not required to have any legal training. They are ordinary citizens chosen by the political parties that are represented in the county administration.

Appealing a rejection of an asylum application

The appeal is directed to the Migration Court but should be sent to the Migration Agency. This is done to give the Migration Agency an opportunity to review its decision based on the content of your appeal. If the Migration Agency does not want to review the case the appeal will be passed on to the court together with a **STATEMENT**. In this statement the Migration Agency will explain how it views your reasons.

After that the Migration Court will decide whether it requires more information about your case. It will also decide whether you should be called to a meeting, a so-called **ORAL HEARING**. At a hearing in the Migration Court you will meet with your prospective representative, the Migration Agency's **LITIGATOR** as two parties. The litigators are lawyers who speak for the Swedish Migration Agency. Once the hearing is over says the judge will say when the judgement will be handed down. It is most common for cases to be decided based on the written submissions.

If you have had a publicly appointed lawyer, then this person will help you appeal.

If you do not have any legal assistance you can appeal yourself. Write a letter to say you are appealing. Do not forget to mention which decision you are appealing, the date of the decision, your name and your case number (top right corner of the letter from the Migration Agency). Read the decision carefully and explain why it is not correct and why you cannot return to your home country. If there is evidence that the Migration Agency has not seen, then include that. In cases where asylum seekers do not have a lawyer this can be because the Swedish authorities believe that you can get protection in your home country. Therefore, it is important to show that you have tried to contact the police in

your home country or to find reports which show that persons in your group or situation are unable to get protection.

You can request a public lawyer when you appeal. You can also ask that the Swedish authorities do not return you until the court has decided on your case. This is called a **REQUEST FOR A STAY**. The address the appeal is to be sent to is on the last page of the decision. You have three weeks after you received notice of the decision to appeal.

[Read more about how you can influence your case on page 101.](#)

Appealing protection status

If you have been granted protection as in need of subsidiary protection but feel that you should have received refugee status, then you can appeal the decision just in relation to this matter. In such a case, it is especially important to show that you are really threatened as an individual in your home country. It is important to include in your appeal all information about who you are as grounds for being under threat, who has threatened you, which group you are a member of etc.

Note that it is not possible to appeal the length of the permit. If you just appeal that you have received a 13-month permit, then you risk that the court rejects your appeal without either addressing the issue of your status or the duration of your permit. It is your subsidiary status that you must appeal and request refugee status. If the court approves your application it will lead to your getting a permit for a longer period as well as the right to family reunion if you fulfil the other requirements.

You have the right to request legal assistance from a lawyer even when you appeal your status.

You will keep your permit even if you appeal your status. But remember that the possibility of obtaining a permanent residence permit through employment is only possible when a temporary permit expires.

To request an oral hearing

An oral hearing in the Migration Court provides you with an opportunity to explain in your own words why you must be allowed to stay in Sweden. But you cannot expect to be able to tell your whole story from the beginning. The court should already have been introduced to the most important aspects of the case through documents submitted earlier. Migration Agency representatives are also present in court. They are there to say why they think you should not be granted residency, and ask you questions about things they find lacking in credibility.

You or your lawyer can explain things that have been unclear and point out faults in the Migration Agency's decision. If you want to be able to talk to the court about your case, you should ask your lawyer to request an **ORAL HEARING**.

Oral proceedings in a Migration Court should be held if you request it, if there are no special reasons against it or it is considered unnecessary. If your application has been rejected because the Migration Agency has questioned your credibility, you are entitled to a hearing. On the other hand, your application for a hearing may be rejected if your credibility has not been put in question or if the court does not intend to question your credibility. That means that if the case is “only” about factual issues such as the situation in your country of origin, the court is of the view that it can make a decision without you being present.

If you do not request an oral hearing, the court may decide to offer one anyway if they feel that this might facilitate their

decision-making. If the court does not consider your presence necessary, they will base their judgement on the documents that your lawyer and the Migration Agency have submitted.

The court should notify you whether there will be no hearing so that you can hand in more material if necessary.

Confidentiality

The documents concerning you that the Migration Agency have are handled with confidentiality. That means that no unauthorised person is allowed to see them. People who have nothing to do with the case cannot be present when the Migration Agency discusses your case. Court proceedings, on the other hand, are often open to the public and judgements are released to anyone who wishes to read them. Even documents concerning asylum seekers can be generally available unless the court decides against it. But the Migration Courts are supposed to use caution when giving out information about asylum seekers. The courts may only give out information if it is clear that this will not place you or anyone close to you at risk. The Migration Courts make the judgements public but remove any information that might be used to identify you, including in certain cases which country you are from.

You or your lawyer can request that the proceedings take place **BEHIND CLOSED DOORS** (that is excluding outsiders) and that the documents be treated with confidentiality.

Appealing decisions in the accelerated procedure

If you have received a decision to be transferred according to the Dublin Regulation or a decision on immediate removal you have

the right to appeal. But this must be done within three weeks of your receiving the decision. When you appeal you can request public legal counsel (lawyer) if you do not already have one. It is not common for public counsel to be appointed but this can happen.

You do not have an automatic right to stay in Sweden to await the court's decision in your case. But you can request a delay or stay which means that the transfer or removal is postponed to await the coming decision. You cannot be removed from Sweden until the court has replied to the request. In the case of a transfer according to the Dublin Regulation that has been appealed then the transfer is stopped even if you have not requested it yourself. This also means that the statutory time limitation for the decision is moved forward and is counted anew from when the stay order is removed if your case is refused.

If your claim is rejected

A decision from the Migration Court can be appealed to the Migration Court of Appeal. From the announcement of the judgement at the oral hearing or in writing you have three weeks to appeal.

If your claim is accepted

The Migration Agency can also appeal a decision from a Migration Court to the Migration Court of Appeal. This may happen if the judgement in your case can affect several other cases and the Migration Agency needs guidance from the Migration Court of Appeal. If the Migration Agency has not appealed the judgement within three weeks, the judgement stands and you will be granted residency.

Third instance:

THE MIGRATION COURT OF APPEAL

If your claim is rejected by a Migration Court you can appeal the judgement to the Migration Court of Appeal. This is situated in the Administrative Court of Appeals in Stockholm.

The Migration Agency can also appeal the Migration Court's judgement, if you are granted residency. A positive judgement can therefore not be considered final until three weeks after its announcement.

Leave to appeal

When you or the Migration Agency have filed an appeal to the Migration Court of Appeal the court will first decide whether to even grant you a hearing. This is called requesting leave to appeal. Normally you cannot be deported from Sweden while the Migration Court of Appeal considers this.

The Migration Court of Appeal grants hearings in very few cases. Appeals only lead to proceedings when there are particular reasons for this, or if the Migration Court of Appeal considers there is a need for guidance in how to interpret the law. This means that a decision in your case could help the Migration Agency in its assessment of similar cases in the future. If permission to appeal is not granted, the Migration Court's decision stands.

In an appeal of the Migration Court's decision it is important to specify what decision you wish the court to reach, and why. Your legal representative can help you with this. Since you need permission to appeal you should also state why you are in need of this. It is not enough to explain why the Migration Court has made an incorrect assessment of your reasons. What is important is whether the Migration Agency or the court has made an error of principle in the way your case was treated. The appeal should have reached the Migration Court of Appeal within three weeks after you received information on the negative judgement. Otherwise your appeal will be rejected.

The Migration Court of Appeal can decide to hold an oral hearing, and then you will be summoned to the court and can argue for your case. You may be given an oral hearing if it can be beneficial to the case, but it usually only occurs in so-called security cases.

Security cases

Occasionally the Swedish security police suspect an asylum seeker of threatening “national security”. This could mean suspicions of things such as terrorism or espionage. If the Security Services think that you should be removed or expelled on the grounds of such suspicions, both the Migration Agency and the Security Services will be your counterparts and the last word rests with the government instead of the Migration Court of Appeal. If the Security Services request your expulsion under

the **ACT CONCERNING SPECIAL CONTROLS IN RESPECT OF ALIENS**, the case will be dealt with according to this Act rather than under the Aliens Act.

If you appeal a negative decision in a security case, the Migration Agency will transfer the case to the Migration Court of Appeal, who will arrange an oral proceeding. The same thing will happen if the Migration Agency has granted a residence permit and the security police appeals the decision. The Migration Court of Appeal will then give their opinion to the government, who will make the final decision. In its statement, the Migration Court of Appeal should mention whether it considers there to be impediments to sending you away, such as the risk of you being subject to the death penalty, torture or other cruel, inhumane or degrading treatment, or physical punishment. If the Migration Court of Appeal considers there to be such a risk you may not be denied entry or deported. The government must comply with this.

If the court does not alter the deportation decision

Decisions from the Migration Court of Appeal cannot be appealed. This applies irrespective of whether they give you a negative decision or decide not to assess your case at all.

When the Migration Court of Appeal has said no, you have been given a final decision. The reasons that you have put forward were not enough to grant you residency in Sweden. You must now consider what you want to do. Are you going to try to return to your country of origin on your own? Are you going to wait for the Migration Agency to organize the trip? Will your home country let you return? Are you going to choose not to co-operate so that the Migration Agency cannot deport you? Are you going to try to travel to some other country? Are you going to try to hide in Sweden?

FARR cannot provide answers to these questions – only the advice that you must carefully contemplate the alternatives, and that you need to discuss them within your family if they are with you. You must consider the consequences of the different alternatives for each one of you, including the children. The following sections contain practical information about what usually happens after a final deportation decision.

If any new circumstances should arise that have not yet been assessed, you should turn to the Migration Agency and claim that there are so-called **IMPEDIMENTS TO REMOVAL**. Impediments to removal are circumstances that render an expulsion order impossible to enforce.

[See page 83.](#)

3

DEPORTATION AND ENFORCEMENT

The Migration Agency is responsible for making sure that people whose asylum applications have been rejected leave Sweden.

Return counselling

After having received a deportation order you will be summoned to a meeting with the reception officer at the Migration Agency. At this meeting you will discuss the return trip to your native country, or to another country that will receive you. The Migration Agency prefers you to leave Sweden voluntarily on your own. When it comes to certain countries, it is possible to get financial assistance if you return voluntarily.

There are voluntary organisations who work to advise returnees. This could mean providing services such as finding organisations which could lend you support in your native country or locating relatives.

If you do not leave of your own accord the Migration Agency or the police will try to enforce the deportation, but this cannot happen until the decision has **GAINED LEGAL FORCE** (can no longer be appealed). Most often there is a specific period of time to leave voluntarily. Normally this period is four weeks after the decision is legally enforceable but only two weeks for applications that are considered manifestly unfounded.

If you have received a **TRANSFER DECISION** according to the Dublin Regulation or a **DECISION ON IMMEDIATE EXPULSION**, then you do not have the right to stay in Sweden after the first decision.

[Read more in the section on accelerated procedures for manifestly unfounded claims on page 48.](#)

If the Migration Agency suspects that you will attempt to evade deportation by going into hiding you may be placed under supervision or in **DETENTION**. Being placed under supervision means that you must report to the police regularly.

There are a few examples of people with deportation orders against them having been arrested by police in conjunction with the return counselling session. On the other hand, it is common to view the act of not showing up to the return counselling as a sign of non-cooperation, and this may lead to the case being handed over to the police.

If you do not turn up when the Migration Agency summons you, change your address without notifying the Migration Agency or refuse to co-operate in some other way, the Migration Agency will hand over the task of enforcing the denial of entry or deportation to the police. This might also happen if, for example, you threaten to hurt yourself or someone else.

If you do not live together with your child you usually lose the right to housing and daily allowance after a final decision.

Read more about your rights after a final negative decision on page 141.

🔗 Read more about support for voluntary return by searching for “återetablering” on the Migration Agency website: www.migrationsverket.se

If your case is handed over to the police

The Migration Agency can ask the police to help them with specific things such as assistance to pick you up, or they may hand over the entire case to the police.

If your case is handed over to the police, they may issue a warrant for your arrest. It is the police's job to search for you to oblige you to leave the country. In this situation, the police are responsible for everything: the Migration Agency case workers are no longer involved in your case. On the other hand, it is still the Migration Agency that makes the decision should impediments to removal arise. The police can also hand back the case to the Migration Agency if for example you decide to cooperate and wish to return voluntarily.

See page 83.

How does the police search for people who remain in Sweden without a permit?

The police have the right to control your ID documents if they have reason to believe that you are residing in Sweden without a permit.

Normally they request ID in other routine cases such as traffic checks or in checks at restaurants. They can also take fingerprints. The risk of being caught is considerable for someone who breaks a rule, such as travelling on public transport without a ticket.

If you are apprehended without valid documents the police can place you under supervision, in detention or in jail while waiting for deportation.

The Migration Agency has a duty to report to the police if they find out where you are living. Other authorities cannot report to the police on their own initiative, but the police have the right to ask for example the social welfare authorities about persons receiving support.

For how long is the deportation decision valid?

The Migration Court of Appeal's decision to deport or deny you entry expires after four years. This is counted from the day when the decision gained legal force – that is to say when it could no longer be appealed.

Can I come back after having been deported?

If you leave Sweden and come back within four years to claim asylum your application will be treated according to the rules on impediments to removal, not as a new case. In other words, you cannot re-enter the process from the beginning until four years have passed. The old deportation order still stands and if the Migration Agency considers it to be self-evident that you lack new grounds for asylum the decision can be enforced once again.

Re-entry ban

If your asylum application is rejected and you do not leave Sweden “voluntarily” before the date stated in the rejection, you may be given a re-entry ban. That means that you cannot return to the Schengen area for a certain time. The re-entry ban can also be limited to Sweden. The Schengen countries are part of the EU apart from Bulgaria, Croatia, Romania, Ireland and the UK. Moreover Norway, Iceland and Switzerland are included. Passports and visas from these countries are valid in the whole Schengen area.

Re-entry bans just based on not leaving the country within a certain time are normally for one year. If the Migration Agency suspects that you will not leave Sweden voluntarily, they may issue a no-entry ban right away, with the asylum decision. That may ban you from re-entering Schengen for two years or up to five years. That might happen if you have avoided deportation before, said that you will not leave Sweden, not helped the Migration Agency verify your identity, made false statements, omitted information, or committed a crime. If you get a re-entry ban of this kind, you lose the time you otherwise would have had to leave the country by your own accord and must go immediately.

A re-entry ban means that you will be entered on a blocking list which prevents you from re-entering the Schengen area or Sweden with a visa. The re-entry ban can only be removed if there are strong reasons such as the right to family reunion.

If your asylum application is considered manifestly unfounded then the main rule is that you will not have any deadline for voluntary return and that the re-entry ban will be already issued in the decision even if you cooperate. This re-entry ban is usually valid for two years. But the Migration Agency should not issue such re-entry bans if there are special grounds, for example if you have a family or a residence permit in another Schengen country. If you have cooperated and the re-entry ban is not based on something you have done, then it is also possible to remove the ban if for example you apply for a work permit.

When a temporary residency permit expires

If you have a temporary permit based on protection grounds, distressing circumstance or as a child lacking reception facility in the home country or you are studying at senior secondary school then you can apply for an extension. You should apply before the first permit expires. Then you keep the social rights you have such as child allowance for example or other support while you wait for a new decision.

When you apply for an extension you can also present new grounds. You may for example have been allowed to stay because there was no orderly reception for you but now you have protection grounds, or as a person with subsidiary protection you wish to apply for refugee status. If you cannot get a permit based on the previous reasons, then you might be able to get a permit based on studies at senior secondary level.

If you have a permit for senior secondary school studies you can have it extended if you have not graduated or reached 25. You must show that you have studied actively each year. If you had your first permit according to the new senior secondary school law (see p 93) you must have been accepted for an educational programme and have a study plan.

You can receive an extended permit for Swedish language introduction only once. If you attend a national programme or a vocational programme you can prolong your permit up until graduation and a further six months. After graduating you must find a job unless you can be granted a permit based on protection grounds or distressing circumstances.

Permanent residence permits can be granted when a temporary permit ceases according to the Limitation Act on condition that you can support yourself through a job or own business. The job

must be reported to the Migration Agency and fulfil the requirements of the collective agreement in that branch of work. The job must be regular and last for at least two years and must not be subsidised by the state. Young persons under 25 must have completed senior secondary school or the equivalent if a job offer can lead to a permanent residence permit.

If you have a temporary residency permit because you have come to Sweden to get married, the residency permit will usually be made permanent after two years. You must re-apply yourself. But if you move to Sweden as a relative to a person who has a temporary permit according to the temporary law (Limitation Act) then you cannot receive a permit that lasts longer than the permit of the person who is here

If you have a temporary residency permit because the authorities think that you will be able to return to your native country after a certain period of time, you are considered to have accepted leaving Sweden when the temporary permit expires. If you still wish to stay in Sweden you have to re-apply. If you have a deportation decision that has gained legal force but have later been given a temporary residence permit because the deportation could not be carried out, special rules apply. In this case, the deportation decision is still valid when the temporary permit expires. You cannot re-claim asylum because you have already been given a final rejection. In this situation you can only have the residency permit renewed if you can show that the impediment to removal remains or that new impediments have arisen.

[Read more about impediments to expulsion on p 83](#)
[and about the "new secondary school law" on p 93.](#)

DETENTION

The Migration Agency's closed unit is called a detention centre. Decisions about placing a person in detention are taken by the Migration Agency. If the case has been handed over to the police, it is the police that make the decisions.

Reasons for being placed in detention

According to the Aliens Act, an asylum seeker can be placed in detention for several reasons.

In conjunction with your entry into Sweden or your submission of an application for asylum you may be placed in detention...

- **if your identity is unclear or if you do not wish to co-operate in inquiries into identity.**

An unclear identity means that you cannot prove who you are to such an extent that the Migration Agency believes you. If your grounds for asylum can be assessed without knowing exactly who you are, you may not be taken into custody simply because your identity is unclear.

Later on in the asylum process you may be placed in detention...

- **if you do not co-operate during the investigation, so that your asylum application cannot be assessed.**
- **If your denial of entry or deportation is to be carried out and the Migration Agency has reason to believe that you will go into hiding or commit crimes in Sweden.**
- **If it is likely that you will be given a quick decision (a deportation order without a thorough investigation). You may then be placed in detention even before the decision has been made.**

Relatively few asylum seekers are placed in detention. It can be difficult to foresee who will be detained. The reasons behind the Migration Agency's or the police's assumptions that you will go into hiding vary. Common reasons are that you have lived in hiding before, that you have stated that you do not intend to co-operate upon denial of entry or deportation, or that you have not been showing up at meetings to which you have been summoned.

A decision by the Migration Agency or the police to place you in detention can be appealed to the Migration Court. A judge will then decide whether the reasons for detaining you are adequate.

Time limits and legal aid

If you have a decision on expulsion you must not be detained for more than two months unless there are exceptional (strong) reasons for this. After two months, the decision on detention reviewed. In that case, you and your legal representatives are called to a meeting with the Swedish Migration Agency. If your case has been handed over to the police, the meeting will be held with the police instead. After that hearing, the Migration Agency or the police decide if there are serious reasons to keep

you in custody for two months. Once these two months have passed, the decision must be reviewed again. The time cannot be extended by two months any number of times, because the law prohibits the detention for more than 12 months. Decisions on continued detention can be appealed to the Migration Court.

If you have been in custody without having received a decision on expulsion you are detained a maximum of two weeks. Should the authorities consider that there are serious reasons to continue to keep you in custody, the decision must be reviewed regularly every two weeks. This type of custody is not intended to be long-lasting. There is no limit to how many times it may be extended.

You can also be taken into custody in connection with submitting the asylum application for your identity to be established. Such detention may only last 48 hours and cannot be extended. But you can be taken into custody on other grounds.

PUBLIC COUNSEL

If you are placed in detention you will be provided with legal representation after three days. Your legal representative can appeal the detention decision before the two months have expired. Your lawyer might request that you instead be placed under supervision (that means required to regularly report to the authorities) or be completely released. The lawyer helping you with your detention is not necessarily the same person who is in charge of your application for residency.

EMBASSY VISITS AND TRAVEL DOCUMENTS

A common reason for being kept in detention for a prolonged period is that the authorities find it difficult to arrange travel documents for you. In such cases, the police can ask you to visit

your native country's embassy with them. You can refuse to go with them and it is uncommon that the police use violence but according to the law they have the right to do so. You can also refuse to co-operate in some other way, for example by not signing the application for travel documents. However, this can be used against you in negotiations concerning whether to prolong your detention or not.

Your application for asylum

If you have a pending application for asylum or a residence permit, it will continue to be dealt with during the time you are in custody. It is also possible to apply for asylum or a residence permit if you have not done so already. Since you are detained, your application is given priority.

If you have received a lawyer for your custody case it is not part of his/her mandate to assist you with your application for a residence permit. You always have the right to write in your own language to the court or the Migration Agency and present new reasons for why you need protection in Sweden. If you have the means to, you are free to hire a private lawyer or lawyer. We recommend that you seek advice from the voluntary organisations who visit the detention centres.

Your rights while in detention

The Aliens Act states that anyone held in detention should be treated humanely and with respect for his or her dignity. You should be given the opportunity participate in activities and recreation (which can mean games, TV and other things). You should also be able to take physical exercise and spend time outdoors.

You have the right to healthcare during your time in detention,

including at hospitals. If you are denied the healthcare that you consider yourself to be in need of, you should continue claiming your right. You may not bring alcohol and objects that might hurt you or others into detention centres.

You have the right to receive visits and in other ways contact people outside the detention centre, as long as this does not interfere with the running of the detention centre. It is common that you have to book visits in advance. The visits may be supervised, if that is considered necessary for security reasons. Detention centre staff will often ask visitors to write their names on a list. This information is not saved. The staff do not have the right to conduct body searches on visitors, that is to control what they bring into the facility. They may, however, search you after the visit. When you are visited by your legal representative or your lawyer, different rules apply. Your meeting may then only be supervised if your legal representative specifically requests it to be.

Custody

If it is considered necessary to uphold security and order at the detention centre, or if you are considered to be a danger to yourself or others, the Migration Agency may decide that you should be held separately from the other detainees. This might mean transfer to an ordinary custodial jail. A jail is a kind of detention centre run by the police, where suspected criminals are also held. The security is more vigilant there.

If you have been placed in custody for reasons mentioned here, that decision should be reviewed at least every three days. You are entitled to assistance from the lawyer dealing with your detention case if you wish to contest it. You may not be put in jail if you are under the age of 18.

Being placed under supervision

Instead of detention, the Migration Agency or the police may decide that you should be placed under supervision. This means that you must report to the police station or the Migration Agency at regular intervals, for example twice a week. Children may also be placed under supervision. Supervision decisions should be re-examined after a maximum of six months.

Children in detention

Children are rarely placed in detention. But the law does permit it, if it is done in order to execute a denial-of-entry or deportation order. A condition is that earlier attempts to deport the child have failed, even though the child has been placed under supervision. Besides, a child can be placed in detention in connection with an immediate removal order, or if it is likely that such an order will be issued. The child may then be placed in detention as long as:

- **there is an obvious risk that the child will otherwise abscond in order not to be removed from Sweden, and...**
- **...it is not enough to place the child under supervision.**

A child may not be separated from both his or her guardians (often the parents) by the detention of either the child or the guardians. An unaccompanied minor (a child who has arrived in Sweden without his or her guardians) may be placed in detention only if there are exceptional reasons supporting such a decision.

The child may not be kept in detention for longer than 72 hours, but if there are “exceptional reasons” the child may be detained for another 72 hours. Children can therefore never be held in custody longer than 6 days.

The law allows the police to apprehend foreigners to carry out a removal order. This means that a person can be apprehended, detained and transported in direct connection with removal without it being defined as being taken into detention. This applies also to children. Such apprehension can last at most 24 hours but can be extended a further 24 hours if there are exceptional grounds.

IMPEDIMENTS TO REMOVAL

– ASSESSING NEW REASONS

Claiming impediments to removal means that you tell the Migration Agency that it is not possible to carry out your deportation (removing you from Sweden) and why. The Migration Agency should, in theory, assess such obstacles on their own initiative, if it is informed of their existence. But usually the person who has been denied asylum must request it.

If there are impediments to removal then it may be postponed or you may get a new decision granting you residency. There are two types of obstacles to removal:

- **obstacles of a practical nature or which are due to things such as illness and other humanitarian circumstances**
- **hindrances which imply that you need protection.**

The Migration Agency can make decisions regarding both types of obstacles. The Migration Agency's decision can only be appealed if the impediment is about protection grounds.

Decisions concerning impediments to removal that the Migration Agency can make without carrying out a complete re-assessment of the entire case are often called "12:18" based on the section and paragraph on impediments to removal in the Aliens Act. In such cases, only the new grounds are assessed.

Decisions to re-assess the entire case due to the possible existence of new reasons concerning protection needs are called "**12:19**" after the paragraph on new assessment. It is only possible to get a new assessment if you (or your legal representative/lawyer) have drawn attention to impediments to removal concerning protection needs.

You are not entitled to free assistance from a lawyer in order to claim an impediment to enforcement. However, if you apply on the grounds of a need for protection you can apply, at the same time, for a stay in the removal order and for public counsel. If you have been granted a fresh assessment, you may get a lawyer.

CHILDREN AND IMPEDIMENTS TO REMOVAL

When the application regarding impediments to removal concerns a child, the circumstances do not have to be quite as grave as for adults. Impediments to removal in the case of children can, according to the section in the Aliens Act, concern situations where the child cannot be taken care of in an appropriate way in the country of origin. The reason for this may be that the child's guardian has passed away, or that it is not possible to locate the parents. A serious health condition and other distressing circumstances can be given a bit more weight than they would for an adult.

Practical and medical impediments to removal

Reasons to assume that the receiving country will not allow you to enter.

If the country to which Sweden wants to deport you refuses to receive you this is a practical impediment to removal. This must not, however, depend on your "refusal to co-operate". You may be

accused of this if you refuse to visit your native country's embassy to get travel documents, or if you do not make sufficient efforts to obtain ID documents.

Medical obstacles or other special reasons for not carrying out the decision.

In this case, a medical obstacle does not concern how you will exist in your native country, but rather whether you are too ill to survive the flight.

There may also be humanitarian obstacles, such as your child being severely ill and not being able to get the required healthcare in your country of origin.

It might also be that you have a strong connection to Sweden that did not exist when you were given the deportation decision. If you have started a family during your time as an asylum seeker, you may be entitled to live in Sweden. Normally, an application based on such grounds should be made from abroad. However, if there are children who would suffer from your separation, the Migration Agency can, in certain cases, take into account the best interests of the child and allow you to stay in Sweden for the purposes of the application.

Impediments to removal due to new protection needs

New circumstances that could give you residency as a refugee or person otherwise in need of protection.

New grounds for protection are, for example, that the circumstances have changed in your country of origin so that it has become more dangerous for you to return.

These can also be that the authorities of that country have become more interested in you, or, for example, that you have been told that a warrant has been issued for your arrest or that you have been convicted there.

If your personal circumstances have changed, it can also be an impediment to enforcement. This applies, for example, that you as a single woman come from a country where women cannot be expelled without a male network.

These must be reasons that have not been assessed earlier and that you have not been able to bring up earlier. Even very serious medical or other reasons, which can be assumed to mean that an expulsion would lead to inhuman or degrading treatment, can be examined under this category of impediments.

Regardless of the type of impediment to removal that you ask the authorities to assess, it is difficult to get them recognized. Circumstances that you have raised before – or could have been raised – are usually not enough even if there is new evidence. Both sections deal with new circumstances which can prevent enforcement. Since practical / medical reasons and new protection grounds are handled differently by the authorities it can be helpful to think through what kind of reasons you have.

Assessment of impediments to removal (12:18)

The Migration Agency should assess on its own initiative whether there are any impediments to removal, if it “comes to light” that the deportation or denial of entry order cannot be carried out. Anyone can inform the Migration Agency of eventual impediments. For example, the police may notify them of the fact that it is not possible to carry out a deportation to a certain country or a doctor may testify that the patient is too ill to fly. A guardian or case worker can also bring problems of enforcement to light. You yourself or your legal representative or lawyer can of course also inform the Migration Agency that there are new reasons that make it impossible to carry out the expulsion. However, the Migration Agency rarely accepts those obstacles as valid. Even if the police inform them that your

country of origin is not willing to receive you, this is hardly ever enough to make the Migration Agency cancel the deportation.

When it comes to practical and medical obstacles, only the Migration Agency can make decisions, and these cannot be appealed. The same goes for impediments due to new circumstances that give rise to a need of protection, if they are not brought up by you or your counsel according to paragraph 12:19.

New assessment of protection needs (12:19)

When it comes to impediments due to new circumstances that put you in need of protection, the Migration Agency also makes the first decision. There are three possible answers:

No.

The Migration Agency does not consider this to be a new circumstance that concerns protection needs.

Yes.

The Migration Agency agrees that you have a new reason that means you are in need of protection. You are then granted a permit according to section 12:18.

You are granted a new assessment.

The Migration Agency agrees that you have raised issues concerning protection needs but cannot straight away decide whether they are enough to grant you residency. Your case is then re-assessed, according to section 12:19.

SUMMARY

In order to get a new assessment of your asylum case, you must show that you have new reasons that have not been examined earlier and that show that you are in need of protection in Sweden. Thus, if you request a new assessment of your entire case, it will not help to bring up medical and practical impediments to removal, even if there are such obstacles.

Evidence

If you claim medical reasons as impediments to removal you must submit a doctor's certificate that explains the risks involved in returning (for example death or serious risks to your health). A medical case history is not enough. The doctor's certificate should abide by the guidelines on writing certificates published by The National Board of Health and Welfare.

🔗 You can find these guidelines here:
www.Socialstyrelsen.Se/sosfs/2005-29

🔗 This is a manual for medical certificates in asylum cases:
www.farr.se/att-soeka-asyl/var-d-och-lakarintyg/1079-intyg-i-asy-larenden

When it comes to an impediment to removal due to protection needs you must explain why it really raises the need for protection and how it differs from the reasons that you have brought up earlier. You must also explain why you have not been able to bring up these new circumstances earlier. There may be a valid excuse, for instance that the events are recent. In certain cases, having repressed or not having been able to address certain issues due to a psychiatric condition may constitute a valid excuse.

If you are granted a new assessment

If your application for an assessment of impediments to removal is accepted, but the Migration Agency does not immediately agree that the obstacle is great enough to stop the expulsion, your asylum case will be brought up again. In that case, all grounds for asylum are re-assessed, not only the new ones. It is as if the whole asylum process had started from the beginning, but purely humanitarian reasons will not be taken into account.

The deportation order is cancelled until further notice (you are granted a stay) and normally you are also provided with a lawyer. You are given the opportunity to bring up all the information about the risks you are facing, the current situation in your country of origin and your situation in Sweden. The Migration Agency will eventually make a decision which may be positive or negative. A negative decision may be appealed just like after a new asylum application, and the entire case will then be handed over to the Migration Court. If you have not received a lawyer, you can ask the Migration Court to grant public counsel when appealing.

If impediments to removal arise in a security case, the case is handed over to the government for adjudication.

[Security cases, see page 65.](#)

If you are denied an assessment

If the Migration Agency says no straight away and does not want to make a new assessment concerning your claimed impediments to removal you may appeal the decision – but only if you have claimed needs for protection. Then, the decision not to make a new assessment can be appealed to a Migration Court, and in the last instance to the Migration Court of Appeal. It can be an advantage to have a representative to help you. When you appeal you

can request public legal counsel. Adults often have their request refused but unaccompanied children have the right to legal counsel when a new examination of the case has been refused. Remember that the appeal only concerns whether you will be granted a new assessment at all.

However, appealing the decision is not always the wisest thing to do if you are denied a new assessment. This is especially true concerning practical or medical obstacles, attachment to Sweden, the well-being of a child and similar things. But also, if you suspect that the likelihood of the court agreeing with you about your needs for protection is very small. In this case, it might be better for you and others to speak to your case worker at the Migration Agency, seeing as this is where decisions on impediments to removal are made. If your case has been handed over to the police it might be good for the police to hear about your problems. The central issue is making the case worker at the Migration Agency realize that it is in fact not possible to put you on the plane.

Residence permit duration when there are impediments to enforcement

While the Limitation Act applies, temporary residence permits are mainly granted.

- **A residence permit granted on the basis of a lasting impediment to enforcement is usually for thirteen months.**
- **a residence permit granted due to impediments to enforcement after a new examination of the grounds for asylum is for three years or thirteen months, as in the regular asylum procedure.**
- **a shorter residence permit can be granted for temporary impediments to enforcement and other special situations, such as a medical treatment or to testify in a trial.**
- **A residence permit of twelve months or less may be granted to unaccompanied children who are not sent to their home country without adequate reception – so long as they are minors.**



How great is the chance that the deportation will be stopped due to impediments to removal?

The majority of applications concerning impediments to removal are rejected by the Migration Agency, and it is unusual for the Migration Courts to offer an alternative opinion.

You can claim impediments to removal several times if further protection needs or practical obstacles, new evidence or practical impediments to enforcement arise. But every time you call attention to enforcement the

circumstances you present are “consumed”. If you make a new application these circumstances will not be considered new anymore, as you have already presented them. Therefore, it may be better to wait with a new application and ensure that it is properly substantiated and all the new circumstances will be considered, especially if you are waiting for further evidence or suspect that the situation will worsen.

It may also be worthwhile to wait until you can get help from a knowledgeable representative.

May I wait in Sweden while the case is being decided?

If you have been given a decision by a Migration Court or from the Migration Court of Appeal that is legally enforceable you do not have the right to reside in Sweden while you wait for the decision concerning the assessment of impediments to removal.

The exception is if you have requested a new examination based on protection grounds. In that case the expulsion cannot be carried out until the Migration Agency has made a decision regarding a new examination. If you appeal and request a stay order, then the expulsion cannot take place until the court has made a decision on this request.

If there is to be a fresh assessment, the expulsion may not be enforced until it is completed. However, it is difficult to know how long such a reprieve will last since it expires as soon as the Migration Agency has made its decision, and the police may get the news before you do. The Migration

Agency may also make a specific decision on a stay in the expulsion order and in that case you will be given information about that.

The Migration Agency cannot deport me, but I am not given residency either. For how long can this situation go on?

In certain cases, there may be practical impediments to removal that mean that you cannot be deported, but that the Migration Agency consider it to be your fault. Examples of this are if you refuse to visit your native country's embassy in order to be issued with travel documents or if the Migration Agency thinks that you are not trying hard enough to prove your identity. Even if it is the country you will be deported to that does not want to receive you, it can be very difficult to prove this. It can also be difficult to prove that there are no new circumstances. In such cases, you have a long wait.

Switching tracks

If your asylum application has been rejected but you worked in Sweden as an asylum seeker, you can “switch tracks” and apply for a permit based on employment without having to leave Sweden. The application must be made within two weeks after the expulsion decision became legally enforceable. Speak to your employer in advance if you think your application will be rejected. You must have a valid passport and have worked legally for the same employer for at least four months. Current rules on this can be found on the Migration Agency's website. There is an online form for the employer to fill in. Otherwise, the rules are like when applying from abroad. However, there is no obligation for employers to advertise the job.

[Read more about work on page 32.](#)

Senior secondary school studies after a refusal decision

Through a modification to the Limitation Act young persons who have had their asylum application rejected can apply for a permit to complete their senior secondary education. When this is being written only unaccompanied minors who sought asylum at the latest on 24 November 2015 and who are still considered under 18 when the first rejection came are included. The rejection must be formulated so that it could not be carried out until the child is an adult because of the lack of an orderly reception in the home country. A young person who fulfils these requirements and attends senior secondary school can be granted a four-year permit. Certain unaccompanied minors who otherwise would have been expelled as adults have also been able to apply for senior secondary school studies. This possibility is called “the new secondary school law” and was introduced in the Limitation Act on July 1, 2018. An application had to be handed in by September 30, 2018 at the latest. The permit is valid for 13 months.

Requirements for permits according to the "new secondary school law": Your application must have been registered on November 24, 2015 at the latest and you must have been considered an unaccompanied minor. You must have received your first decision after applying for asylum, on July 20, 2016 at the earliest and then been considered an adult. At least 15 months must have passed after your asylum claim was registered up to the date of the first decision. You must have been in Sweden when you applied for studies at senior secondary school. You must not have committed any crime. You either study or plan to study at senior secondary school or the language introduction course. If you did not attend school when you applied you must have attended school at some earlier stage in Sweden

In order to renew your permit after the first 13 months according to the senior secondary school law you must have been accepted for a course and have a plan of study. If you are too old to study at senior secondary school you must find a place in adult education or at a folk high school. You must check with the school if the programme qualifies you based on the senior secondary school law.

You can get a new permit for another 13 months to study an introduction programme such as the Swedish language course but only on one occasion. If you study a senior secondary national programme or a similar one in adult education or at a folk high school you can be granted a permit for the whole length of the programme and an additional six months. Even a vocational introduction programme at senior secondary school which will lead to you being able to get a job or a complete programme within adult education you can allow you to be granted a permit for the programme and an additional six months.

[Read more about prolongation and work permits on p 74](#)

WHEN SWEDEN DOES NOT PROVIDE PROTECTION

If you have been given a final rejection on your asylum application, you may feel that you have been wrongly assessed. You might have very strong needs for protection, or risk torture or inhumane or degrading treatment if you are sent back to your native country. If you have strong evidence supporting this, there are a couple of international instances to which you can turn.

These institutions can examine your case and form their own opinion, even if Sweden considers you not to be in need of protection. Before you turn to them you must however have come to the end of the asylum process in Sweden, so that there are no more chances of receiving protection here. The application cannot be processed until the decision in Sweden legally enforceable, but you may submit your application as soon as the court judgement is announced in order to allow the international court time to view the documents before the deportation can be executed.

If the international instance agrees to examine the case and requests Sweden to stay the deportation order, the decision will not gain legal force again until the international instance has made its decision. If the decision is to encourage Sweden to completely annul the deportation order, Sweden usually complies.

It is important not to use this possibility if you do not have reason to fear serious abuse in your country of origin, or if there is an **INTERNAL FLIGHT ALTERNATIVE** (that is to say that you would be safe in a different part of your native country). It is not an instance to which one would normally turn, for example regarding Dublin cases. You should talk to someone knowledgeable before you send in an application to any of the international authorities. The most common are:

- **The United Nations Committee Against Torture (CAT)**

It is located in Geneva and makes decisions in individual cases in May and November each year.

- **The European Court of Human Rights**

It is located in Strasbourg in France and can decide whether the states that have signed the European Convention on Human Rights actually respect it. The court delivers judgements all year round.

These instances are grounded on one convention each: **THE UN CONVENTION AGAINST TORTURE** and **THE EUROPEAN CONVENTION ON HUMAN RIGHTS**. Article 3 of both conventions is important for those of you who are at risk of being deported.

Neither CAT nor the ECHR examines all cases that are sent to them. If they agree to re-assess your case you must be prepared to wait for a long time – years, in the worst-case scenario – for a decision.

The Committee Against Torture, CAT

The Committee Against Torture, CAT, is a UN organ whose task it is to make sure that no member state deports anyone at risk of torture. The Committee's work is based on Article 3 of the UN convention on torture. This states that:

1. No state party shall expel, return or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture

2. For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights.

CAT primarily concerns itself with cases where someone risks being tortured by the authorities (the State).

 Read more: www2.ohchr.org/english/bodies/cat


The European Court of Human Rights, ECHR

The European Court of Human Rights, ECHR, should ensure that no state party violates Article 3 of the European Convention on Human Rights. This states that:

No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

How to apply

If you are in a hurry it is possible to fax an application to CAT or ECHR. You may then write in your own language or in English or Swedish and explain why you are appealing to them. (Swedish is not an official language for CAT, but it is fine to write in Swedish to the ECHR. You can check their websites to see if they accept applications in your language.) There are application forms in various languages.

 You can find the addresses at the websites, www2.ohchr.org/english/bodies/cat och www.Echr.Coe.Int

Describe what you fear will happen to you if you are deported, and what evidence you have that can prove it. To complete your application, you must also send copies of all the decisions in your asylum case. This applies to decisions from both the Migration Agency and the Migration Court, and from the Migration Court of Appeal if you have applied for leave of appeal.

You cannot normally expect your lawyer to appeal to the CAT or the ECHR. It is not included in their assignment.



Can CAT and the European Court of Human Rights stop my deportation?

Yes. Both the Committee Against Torture and the ECHR have the power to request that the Swedish state suspend a planned deportation, through a fast-track procedure. They can do this if they, after a first glance at your case, consider it to be a possible violation of Article 3 if you were to be deported before the Committee or the Court had time to examine your case properly. According to the Swedish Aliens Act, such a request should be respected and the Migration Agency should grant a stay. It is stated in chapter 12 § 12 of the Aliens Act that:

If an international body that is competent to examine complaints from individuals makes a request to Sweden for suspension of the enforce-

ment of a refusal-of-entry or expulsion order, a stay of enforcement shall be ordered unless there are exceptional grounds for not doing so.

When a stay in expulsion is granted, you may live as you did when you were an asylum seeker, with full financial support, but you do not have permission to work.

If either CAT or the European Court finally decides that Sweden has made a mistake and that you ought not to have been given an expulsion order, Sweden should comply and award you a residence permit.

Can I turn to both CAT and the European Court of Human Rights at the same time?

No. CAT does not normally take up a case that has already been dealt with by the European Court of Human Rights.

🔗 **Read more about the European Court:**
www.Echr.Coe.Int (click on "applicants".)



HOW YOU CAN INFLUENCE YOUR CASE

Reveal everything right from the start.

Neither the Migration Agency nor your legal representative know as much as you about what you have fled from. This means that even if you think that what you have gone through is obvious, the Migration Agency might not know all the details. You must tell them everything about the situation in the country that you have fled from, in as much detail and as coherently as you possibly can.

Certain things may feel especially difficult to talk about, but these might be extra important to explain. If you do not feel up to revealing everything in one sitting, it is important for you to say so, and to bring it up again at a later sitting. Focus should lie on what could happen to you if you were to be sent back to your country of origin.

If something that could possibly help you get residency should occur during the asylum process, such as you entering into a relationship with someone in Sweden or your health deteriorating, you should inform your legal representative as soon as possible. It is not a good idea to “save” reasons in order to bring them up later. Obviously, you must have new reasons in order to get a new assessment after a rejection – but the likelihood that the authorities will listen to your reasons is much greater if you reveal everything from the beginning. The risk is great that what you

“save” will not be accepted as new grounds because you do not have a valid excuse for not having mentioned it previously. It is especially important that your protection grounds are presented as soon as possible even at the registration of your asylum claim if you know that most applicants from your country have received a negative decision.

Choose your legal representative.

In your very first contact with the Migration Agency when you seek asylum, you will be asked whether you wish to be represented by any particular lawyer as your public counsel (if it has been determined that Sweden is responsible for your case). You then have an opportunity to mention a lawyer or a lawyer that you have been recommended, or accept the one suggested by the Migration Agency. If you wish to choose one but do not know anyone you can ask around and submit a name later, although preferably within a few days.

Read about your right to public counsel and the possibility of changing your legal representative on page 49.

Co-operate with your legal representative.

It is extremely important that you co-operate with your legal representative. Ideally, you would meet with your lawyer before the asylum interview – make contact yourself if he or she does not! If your interview at the Migration Agency is due before you have been given a lawyer, you should nevertheless describe in detail to the lawyer why you require protection in Sweden once you finally meet. You must be detailed; it is not enough for you

to say that there are a lot of problems in your native country. Tell them why you in particular are in need of protection. Even if the Migration Agency considers your country to be safe it must make an individual assessment of your particular case. If the first asylum interview has already taken place, it is important to go through the transcript from the interview with the counsel so that he or she finds out if the Migration Agency's case officers have misunderstood something or if important information is missing.

Contribute with knowledge about the country that you have fled from.

The Migration Agency has access to information about asylum seekers' native countries through the database Lifos, which is open to the public on the Migration Agency's webpage. You usually do not need to submit information concerning the general situation in your country of origin. However, it is good to highlight certain parts of the country information that are especially relevant to your case. Make sure that the country information is up-to-date; what you have to prove is not only what you have had to go through, but above all the risk that you run of being subjected to it again in the future.

🔗 Lifos: <http://lifos.migrationsverket.se>

Account for your reasons for seeking asylum in detail.

It is important that you describe your grounds for asylum truthfully, in chronological order if possible and in as much detail as you can. Try to acquire documentation to corroborate your story, preferably at the start of the asylum process. The documents

should support the need for protection or the exceptionally distressing circumstances that your claim concerns. Appropriate documents may be police summons, court proceeding notes, medical transcripts, threatening letters, newspaper clippings etc. Hand over all the material in the original in an envelope to your legal representative. Also, take your own copies of everything that you submit and store them in a safe place.

If you suspect that a document might be fake, you should not use it. Should the Migration Agency discover that a document is not authentic they will question your entire story, not just the contents of the document.

If you have been politically active in your country of origin, political organizations in exile can sometimes help find proof of your political record. The same advice applies here: do not ask for fake certificates or exaggerations.

If you are politically active in Sweden, you should submit information about that too. This could be photos from demonstrations, recordings from local radio, newspaper articles, statements from representatives of the organizations or something else that proves your political involvement. Explain what effect your activities in Sweden would have if you were to return to your native country.

If you have spent time in prison, describe the prison, ideally using drawings and details. Even if it can be difficult to talk about personal experiences, such as a relationship with someone of the same sex, or being raped, it is important that such information reaches your legal representative and the Migration Agency as soon as possible. If the information is revealed at a later date it will not be given the same weight. This might even mean that you are considered untrustworthy.

If you do not want information of a more personal nature to reach anyone, not even your family, it is important to explain this

to your case worker and your lawyer. You are entitled to demand confidentiality even in relation to those closest to you.

If you recall something important that you have forgotten to disclose, contact your legal representative. You can write down your story in whatever language you wish and send it to your legal representative and the Migration Agency. If you write in your own language it is a good idea to write headings in Swedish or English.

The Migration Agency has specific guidelines concerning gender and sexuality that the case workers must abide by and that may make it easier for you to account for your grounds for asylum. A female asylum seeker has the right to request to be interviewed by a female case worker, but there are no guarantees that your wish will be granted.

In the assessment of your need for protection, dates and times are of great importance, especially if they are contradictory. You must therefore be careful to differentiate between what you surely remember and what you only think you remember. In some cases, you can indicate the time by stating what time of year it was, or use other approximations. If you correct the times afterwards this might be interpreted as an attempt to change your story. Sometimes wrong dates and times are due to mistakes in translation and interpretation. Therefore, it is important that you study the documents that your legal representative submits so that you can check that they are correct.

If you are interviewed by the Migration Agency or if an oral proceeding is held this will be documented in writing, so it is also crucial that you get this transcript read to you in your own language. Make sure that you speak up immediately if you discover any mistakes.

COMMON REASONS FOR NEGATIVE DECISIONS

Your case is not Sweden's responsibility

You have been in another EU country, a Dublin Regulation country or another country that is considered safe. Your asylum application should therefore be determined there. It can suffice that you have had the possibility of staying there, for example because the other country has granted you a visa. This is based on the **FIRST COUNTRY OF ASYLUM PRINCIPLE**. This means that Sweden has agreed with other countries that asylum applications must be determined in the first safe country where the applicant has had the opportunity to seek asylum.

You are not credible

The immigration authorities claim that your story contains contradictory facts, or that the evidence you have

handed in is not convincing. Sometimes the authorities believe that evidence in the form of copies of court decisions and other documents could be falsified. Your credibility can also be called into question if you are unable to prove who you are.

You do not risk serious harm

The migration authorities do not believe there is a real and foreseeable risk that you will be subjected to persecution, torture, inhuman or degrading treatment or excessive punishment if you are sent back to your home country. Even if they believe you when you tell them what has happened, the authorities may question whether it will happen again.

You can seek protection from your national authorities

Your case may be rejected for this reason even if you have been subjected to harm by people who are employed by the state, such as police officers and military personnel. The migration authorities may regard this as a situation where state officials have acted outside the rules of their position, as individuals, not state representatives, and that it is therefore possible for you to obtain protection from the authorities.

You can move to another part of your home country

The migration authorities may accept that you cannot live safely in your home region but still ask you to seek protection in another part of your country where you are not threatened. This is called an **INTERNAL FLIGHT OPTION**.

The crisis in your home country is not seen as an armed conflict

You come from a country where there is an armed conflict or other severe clashes, but Sweden does not consider the conflict to be so serious that anyone can be a target. If you cannot show that you, as an individual, risk being personally subjected to persecution, torture or inhuman or degrading treatment and can only refer to the general situation in the country, you risk being given a negative decision.

You have submitted important information too late

You have disclosed important reasons for why you are seeking asylum only after the negative decision from the Migration Agency, in spite of the fact that you knew of them earlier. This can lead to your new reasons being seen as an escalation of your story – that you are exaggerating and making things up. The authorities may

believe that you have learnt what to say in order to increase your chance of obtaining asylum. If you have been a victim of severe traumatic assault in your home country and are too frightened to tell the whole truth from the beginning, the authorities should show understanding. Then the risk is not so great that the new facts will be disregarded as less credible. However, you may need a certificate from for example a psychiatrist or a forensic medical professional in order to persuade the authorities to accept this.

The situation in your home country has improved

The situation has taken a turn for the better since you fled and the migration authorities have concluded that the threats against you are no longer serious enough to grant you asylum. Perhaps you deserted from the army and later the government introduces an amnesty for deserters. Or a United Nations force has started operating in your country and can provide protection in a particular region or in the whole country.

You have not been politically active at a sufficiently high level

You have been an opponent of the regime but not in a prominent position. Therefore your national authorities are not especially interested in you.

You are not considered as having distressing circumstances

You may be seriously ill from a disease that cannot be treated in your home country or have a strong connection to Sweden, reasons which under the Aliens Act may be distressing circumstances in order to stay. But under the temporary Limitation Act, you can still be deported unless your reasons are so strong that it would be a violation of the Rights of the Child Convention or the European Convention on Human Rights to carry out the expulsion.

[Read about "the Limitation Act", page 11.](#)

Your reasons for fleeing are not covered by Swedish law

Examples of reasons that are not sufficient to obtain asylum according to the Aliens Act are ethnic discrimination of "low intensity" or problems with the mafia or criminal groups which Sweden claims that your home country can protect you from. Your reasons can also be seen as economic. If you are poor, do not have a place to live or a job, these grounds are not normally seen as valid grounds for asylum in Sweden, even when your situation has arisen through discrimination.





Specific advice to women

The Swedish Aliens Act is meant to be gender neutral. At the same time, the asylum process has been shaped by a traditionally male perspective. In practice, this makes it difficult for women to get their reasons for asylum validated, since they are often persecuted in different ways than men.

Try to find a legal representative with knowledge of women's reasons

If you are in need of protection due to a reason related to your gender it may be important for you to get a lawyer who has experience in advocating women's asylum claims.

Draw attention to your reasons

During your asylum inquiry, it is crucial that you draw attention to gender-related protection needs. Otherwise there is a risk that your lawyer and the authorities might overlook them.

Emphasize the political implications of what you have done

In many parts of the world, the political activities of men and women take different forms. Even if you have been the victim of abuse specifically because you are a woman who has voiced protest and refused to be dominated, your reasons for seeking asylum may not necessarily be regarded as political. Objections to social, cultural and religious norms do not always fit into the image of what counts as politics. Therefore, it is important for you to emphasize that your activities or your way of life were the result of political choices, even if you may not have been organized in an overtly political movement.

If the migration authorities do not regard you as being a refugee on political grounds they can use a different reason listed in the same section: persecution due to gender. According to the government bill, “gender” should be interpreted as both a social and a biological category. The concept also covers...

socially and culturally determined, stereotypical understandings of how men and women should behave

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This section is also relevant if you have been persecuted for being **TRANSGENDER** – that is, if you have challenged societal norms regarding sexual identity or expression of sexuality. Perhaps you identify yourself as **NON-BINARY** (neither man nor woman), a **TRANSVESTITE** or a **TRANSSEXUAL** (perhaps you have had, or wish to have, gender affirmation surgery). Usually, however, persecution due to gender often means

abuse against women for being women. The Migration Agency has announced that gender-related persecution can include anything from forced abortion and domestic abuse to women being punished for their political activities. It may be that you have been forced to flee because you have refused to follow the social norms of your native country, like wearing a veil. It may also be that someone wishes to force you to marry or be circumcised. If you have fled due to reasons like this you should clarify that you made a conscious decision to act against the norms of society.

The expression persecution due to gender is also used to describe persecution because of political or ethnic reasons, where the actual acts of persecution take a specifically gendered form. For example, you may, as a result of political persecution (as conventionally understood), have been subjected to sexual violence. In such cases it may be more difficult to prove that this was an act of persecution, compared to if you had been subjected to some other form of torture. You must be able to show that the abuse was systematic.

Reveal everything as early as possible

According to its internal policy, the Migration Agency should show understanding if female asylum seekers cannot disclose information concerning particularly traumatic events straight away. It could also be that you, due to cultural or language differences, express yourself in a way that the Swedish case worker cannot understand. For example, you may not feel comfortable talking to a man about what you have been through. The Migration Agency does not always show an understanding of the fact that trauma affects how and when people choose to tell others about their experiences. It is therefore very important that you account for your traumatic experiences as early and in

as much detail as possible, even those events that you find especially sensitive and difficult to talk about. If you do not trust your legal counsel or case worker, it is important for you to find someone else to talk to who can then relay your story. You can also submit a written account of what has happened in your own language. You have the right to request a female interpreter and a female case worker.

Disclose details

If an act of abuse has been perpetrated by a member of your family or some other person close to you, it can be difficult to prove that you are in need of protection. If you have been the victim of rape it may be difficult to prove that there is a significant risk of this being repeated in the future. Therefore, it is important that you tell your story coherently and in as much detail as possible, since, in the absence of other evidence, the inquiry will mostly be based on your testimony.

Reveal things at the right time

It is important that you reveal your reasons for seeking asylum during the actual asylum inquiry, rather than during the part of the interview that concerns family matters or other similar information.

Explain why you cannot get protection from the state

A common reason for the Migration Agency to deny someone residency is that they believe that you can seek protection from authorities or organizations in the country from which you have fled. If this is not possible in your case, it is crucial

that you prove this. The abuse might have been sanctioned by authority figures, or there might not exist any legal or practical protection against the persecution that you have been subjected to.

According to their own internal guidelines, the migration authorities must take into consideration that in certain countries women might have strong reasons for not wanting to file complaints against their tormentors, especially if the abuse has been perpetrated by representatives of the state. The native country's authorities might neglect to investigate sexual crime. Also, it is often more difficult for a woman than for a man to consider internal flight options.

If you want to – request a separate interview

If you do not want your partner or your children to hear of certain things that you have experienced, you can request to be interviewed separately concerning your own claims to asylum. You can also request that the decision based on these reasons be sent separately, and that the information should not be disclosed to your partner or the rest of your family. In certain situations you can even request your own lawyer.

If you need to testify against traffickers

A person who has been a victim of sexual trade in humans, trafficking, can be given a temporary residency in return for testifying against the perpetrators. This must be requested formally by a prosecutor who considers your testimony to be important. These kinds of temporary residency permits should be valid for at least six months. The fact that you are allowed to stay in this way does not stop you from applying for refugee status and a permanent residency permit.



Special advice to you who are persecuted because of your sexual identity

It is not illegal in Sweden to have sex with a person of the same sex and according to Swedish law no one shall be discriminated because of their sexual orientation and/or sexual identity. Homo- and bisexual people have almost the same legal rights as heterosexual individuals today, and many are open about their orientation. Sweden is a relatively tolerant society compared to many other countries. There are organisations that support hbtq-persons' rights (LGBTI) and many social venues where you can meet. (The abbreviation hbtq stands for homo-, bi-, transsexual and queer.)

Present your reasons

If you have been persecuted in your home country because of your sexual orientation, sexual identity or gender then you can seek asylum in Sweden on those grounds. Therefore, it is important that you speak about what you have experi-

enced to your lawyer and your case-officer. For those who come from contexts where the norm is heterosexuality it is easy to believe that they will react in a strange manner but you should not worry about this. Your lawyer is there to help you and the case-officer must obey the law. The same applies if you have grounds for asylum that are based on your sexual identity or gender identity. You have the right to your sexual identity or the gender identity that you identify yourself as having.

Reveal everything as soon as possible

If you do not reveal your reasons for fleeing right away there is a risk that the migration authorities will not believe you when you finally do tell them. It is therefore important that you tell them everything right from the start. If you have not told your lawyer or the migration authorities before you got your negative decision then you can tell them at a later stage. You must ask for a new examination of your case. It is always good if you provide information as soon as possible and preferably from the start.

If you wish – ask for a separate interview

If you are interviewed with your family and do not want them to know certain things that you have experienced then you can ask for a separate interview on your own grounds for asylum. You may then say that you wish any decisions based on this interview to be sent to you separately and that this information must not reach the other members of the family. In certain situations you may even request a different lawyer from the one assigned to the rest of your family.

Explain why you cannot get protection in your home country

A common reason for denial of asylum is that the Migration Agency believes that you can seek protection from authorities or organizations in your country of origin. If you cannot get protection, the burden of proof lies on you. The abuse might have been sanctioned by state officials, or there might not exist any legal or practical protection against the type of persecution that you have been subjected to. In many countries the police do not protect for example trans persons, homosexuals or bisexuals. If this is the case, you may still be regarded as a refugee. It is important that you explain why you have not been given any help by the police, or why you may not even have filed a complaint. If you can, offer examples of how the authorities perceive homosexuality and try to gather evidence to support your claims.

Reflect on your thoughts and feelings

Another common reason for a negative decision is that the Migration Agency does not believe that a person who has sought asylum is homo- or bisexual. It is therefore important to describe your previous experiences in as detailed a manner as possible. It is also good to describe the views the society you grew up in has regarding homosexuals and trans persons and also how this made you feel. Do not be afraid to talk about things that you see as obvious. What is most important is that what you say must have been experienced by you.

Help gather information about the situation in your country of origin

The Migration Agency gathers information on the countries that asylum seekers come from. This country information is then used in making decisions. The migration authorities usually do not know much about the situation of non-heterosexual persons in your country. If there is any information, it almost always only concerns homosexual men, not women. Therefore it can be useful to contribute your own information: give detailed accounts of what you know, try to find reports, articles or certificates from organisations. Give the information to your lawyer so that he or she can compile it.

🔗 Some useful websites: www.ilga.org, www.outrightinternational.org

Live openly – if you wish to

The preamble to the Swedish Aliens Act states that sexual orientation is a basic characteristic that no one can be required to abstain from. As the law has been interpreted, asylum seekers have still been expelled to countries where they dare not show their orientation but are forced to lie and hide themselves. Nowadays the law must not be interpreted in this way. But if the Migration Agency experiences that you do not wish to be open with your sexuality then your credibility can be questioned. There is no requirement to live openly as an LGBTI person but it can be advisable to explain why you could not do that in the country you come from and why you do not feel comfortable with this in Sweden if that is the case. If you have been discreet about your orientation it is important that you explain why you think you would be persecuted regardless – or that you would like to live openly if you dared. It may also be important that you inform people in Sweden of your situation. This also increases the chances of getting in touch with people who can help.

Prepare for the interview

It is important that you feel as comfortable and as secure as possible during the asylum interview. You should practise speaking with someone you trust about your thoughts and feelings regarding your sexual orientation, especially if you are unused to speaking about them. Think through how you have felt and thought during different periods in your life. It is you who are the important person. Also, choose a lawyer you feel confident in. As an asylum seeker you have the right to choose your public counsel (lawyer). If you are given a lawyer by the Migration Agency it is difficult to change even if you are not satisfied. It is therefore important that you inform the Migration Agency about who you wish to have as a lawyer as soon as possible after you have applied for asylum. Organisations such as RFSL can have information on lawyers that are especially suitable for representing persons with LGBTI-grounds.

If you enter into a relationship with someone in Sweden

If you cohabit with or marry someone of the same sex who resides in Sweden you are entitled to a residence permit here (see the section on family members). However, the Migration Agency may insist that you return to your country of origin and apply for the permit there.

You can find help here

RFSL, The Swedish Federation for Lesbian, Gay, Bisexual and Transgender Rights, is a large organization from which you can get support. RFSL has Newcomer groups in many places where asylum seekers, undocumented migrants and persons with residence permits can meet for social activities. Amnesty International Sweden also has a group for LGBTI-refugees.

🔗 For Addresses, see www.farr.se/adresser



Torture and sexual assaults

Mention everything you have experienced that was degrading

A brief definition of torture would be physical, psychological or sexual violence carried out by an officer or representative of the state. That is, abuse from your partner or from criminal gangs on the streets does not amount to torture. However, being compelled to witness how other people are subjected to abuse might be regarded as torture, regardless of whether those other people are known and dear to you or not.

Amnesty and other human rights organizations have described a multitude of different forms of torture. Sometimes the violence does not take the form of physical beatings but rather alterations to the environment, such as lowering or raising of the temperature to extremes, or continual pouring of water onto the cell floor.

According to several international conventions as well as Swedish law it is forbidden to carry out an expulsion to a country where the expelled person is at risk of torture or inhuman or degrading treatment or punishment. You may therefore be entitled to protection even if the treatment that you risk is not defined as torture. It is crucial that you tell the migration authorities about everything that you have experienced as degrading or harmful to your physical and psychological well-being.

Reveal everything as early as possible

If you have been subjected to torture, aggravated assault, rape or other forms of abuse, you should reveal this as soon as possible to your lawyer, or to someone else whom you trust and who can then contact your lawyer. If it seems easier, you can write down what you have been through in your own language and then give the written account to your lawyer or to the Migration Agency. A detailed account increases the chances of being seen as credible. It is important that this information is revealed early on in the process, or alternatively, that you can explain why it has taken time for you to tell your whole story.

Get the physical injuries documented

In order to strengthen your arguments, contact a general practitioner as soon as possible so that he or she can document your injuries. Take the documentation to the Migration Agency and request to see a forensic practitioner as well. The Migration Agency may demand a forensic medical opinion, meaning a certificate from the forensic practitioner, and pay for it, if they think that such an examination is important in order to assess your credibility. Even if your scars are old they should be examined. In this way, you can prove for instance that your burn-marks are remnants of abuse rather than chicken-pox scars, and you will have written proof of your injuries even when the scars begin to fade. The forensic medical opinion should describe the injuries and whether it is probable that they have been caused in the way that you claim.

Get the psychological harm documented

Just as it is important to document any physical injuries and scars due to torture, it is equally crucial to document the emo-

tional and psychological harm that you may have incurred. Therefore, you should get a psychiatric opinion that describes how you have reacted mentally to the things that you have been through. It could also explain why you have not been able to account for certain events earlier. This certificate should be written by a psychiatrist. Try to see a doctor with documented experience and competence. Ideally, you should meet the doctor several times in order for him/her to be able to offer a qualified opinion that the authorities can trust.

It is also important, for your own sake, to get treatment. People who have been subjected to serious abuse, threats or violence, such as war situations, sometimes experience psychological problems afterwards. This can produce different symptoms such as nightmares, painful memories, suspicion towards people around you, anxiety attacks, racing pulse, nausea etcetera. It can also make it difficult to exactly recall parts or entire episodes of what happened to you in your native country or place of abuse. Depressive symptoms are also common, such as a disinterest in the world around you, difficulties in feeling emotions, little or no hope for the future, and general indifference. Certain symptoms can arise immediately, while others can emerge long after the trauma occurred. Such feelings after a trauma are called **POST-TRAUMATIC STRESS DISORDER** (PTSD). It is common for people who have not sought professional help to think that they have “gone mad” and fear telling others about their thoughts and nightmares. But post-traumatic stress is a normal reaction to an abnormal event. Seeking professional assistance is nothing to be ashamed of. It can be difficult to get hold of a psychiatrist, especially since asylum seekers are only granted emergency healthcare or healthcare that cannot be delayed, but it is important to try to get a consultation by any means available to you. Sometimes the best thing can be talking to a psychologist or getting treatment by a psychotherapist. But even if a certain psychologist or therapist is the one most

initiated in your trauma, you may need to get a written opinion from a physician (psychiatrist), since the Migration Agency does not attach as much value to opinions by non-specialist doctors.

🔗 You can see what a medical opinion should contain in the guidelines of the National Board of Health and Welfare: www.socialstyrelsen.se/sosfs/2005-29

🔗 A handbook for medical certificates in asylum cases: www.farr.se/att-soeka-asyll/vard-och-lakarintyg/1079-intyg-i-asyllarenden

The Migration Agency's responsibility

It is difficult for an applicant to pay for an investigation by someone who is an expert in assessing torture injuries. But according to the European Court, the Migration Court and the Migration Agency's own guidelines, the Migration Agency has an obligation to arrange such an investigation if it has concluded that the applicant may have been subjected to torture. If you cannot arrange anything better than a certificate from a regular doctor or psychologist, you should therefore not be dismissed with the argument that the certificate is not written by an expert. If your information is not sufficient, the Migration Agency must instead arrange for an expert investigation.

Seek help from the Centre for Torture Victims

If you are tormented by events that happened to you prior to your arrival in Sweden, there are places to turn to. There are psychiatrists, physiotherapists and welfare officers that can help. Sometimes it can be harmful to start a course of treatment that cannot be concluded, so whether you get help or not may depend on where in the asylum process you are.

🔗 Addresses to caregivers can be found on www.farr.se/adresser



Children's reasons

Who is considered a child?

In Sweden you are a child until the age of 18. If an asylum seeker turns 18 before a decision concerning residency is made, he or she will be regarded as an adult by the migration authorities. Thus, when it comes to determining whether you are to be treated as an adult or a child, it is the age at the time of the decision that matters rather than how old you were when you came to Sweden.

Legal rights of the child

Sweden has signed the UN Convention on the Rights of the Child. This means that Sweden has promised that every child who applies for asylum is to be treated with special consideration with regard to the best interest of the child and the child's development and health. However, the principles of the convention are not directly effective. They need to be transposed into Swedish law in order for the decision makers to be able to apply them. Not all parts of the Convention have been integrated into Swedish law, but the Aliens Act contains a recital on the best interests of the child:

In cases involving a child, particular attention must be given to what is required with regard to the child's health and development and the best interests of the child in general.

Aliens Act, Chapter 1, Section 10

The Rights of the Child Convention states that the best interests of the child should be prioritized – that is, be regarded as of the utmost importance. However, the preparatory works to the Aliens Act state that the best interests of the child should be weighed against Sweden's interest in maintaining regulated immigration. That rule is not as strong as the first one, and what is best for the child must always be examined and motivated in decisions on residency. It is important to make sure that the best interests of the child are not just mentioned but have actually been considered in the decision, and in what way.

Children should be given the opportunity to speak for themselves

The law states that when a child is affected by a decision, that child should be heard (interviewed by the migration authorities), unless it is obviously inappropriate. It is important to create a secure environment in which the child can speak, even though it can be difficult for a child to talk on command or in a place that feels intimidating. The authorities should take into consideration that the child will reveal as much as his or her maturity and age will allow. The parents decide whether their child should be interviewed or not.



Children may have their own reasons for asylum

Swedish authorities usually emphasize the child's rights to its parents, which means that if the parents' reasons for asylum are found to be insufficient it is usually considered best for the child to accompany them back to their native country. Even if it would be in the best interests of the child to stay in Sweden with the parents, this is not always sufficient.

It is important to remember that even children can have grounds for asylum. It is common for the Migration Agency's investigators and even lawyers not to consider this possibility. Even if they remember that there may exist particularly distressing circumstances for children, such as the fact that they may have adapted well to life in Sweden, that they are ill and need medical treatment or similar conditions, children's experiences from their native countries and fear of return are easily overlooked.

It can also be difficult for you as a parent to find out what your child knows, and to see your child being forced to think about traumatic experiences again. But it is still important that events the child has experienced are brought into light. If your child has been traumatized, ignoring it will definitely not help. Therefore, try to think of what your child may have experienced and witnessed. Letting the child draw can be a useful way of gathering information, if it is hard to find the proper words to describe what has happened.

A traumatized child may need help from a psychotherapist or a paediatrician in order to make sense of what has happened. These people can also issue official opinions in order to explain to the migration authorities what the child has experienced and what kind of treatment is needed. Ask for help at BUP, Child and adolescent psychiatry unit!

As with adults, it is important to account for everything that might happen to the child upon return to your native country. Are your children under threat due to your situation? Does the child risk reprisals, not being able to go to school, being taken into custody or being separated from you in some other way? Does the child risk circumcision or forced marriage? If the child has physical or mental disabilities, will he or she be given proper care and treatment in your native country?

Unaccompanied children

Children who have come to Sweden without their parents or other guardians are usually called unaccompanied children. Every such child is assigned to a custodian (**GOD MAN**), who is to take responsibility for the child and take care of its affairs in place of a parent.

It is the Migration agency or the social welfare authority in the municipality where the child is living who apply to the chief guardian to appoint a guardian. If the child is granted a permit then a special custodian is appointed.

It is important also for unaccompanied minors to account for everything that may have happened to them. Since the child may not know what is required and does not see the lawyer for such a long time, other adults may need to assist. Children may be threatened because of their parents' position, due to refusal to take up arms or join a militia, because a hostile group systematically kills or kidnaps young people – or, similarly to adults, due to their own activity or belonging to a certain group. Children may also be in flight due to trafficking.

To unaccompanied minors on grounds for asylum and age

It is common for asylum inquiries about minors to be chiefly concerned with finding out where the parents are, in order for the child to be able to be reunited with them. If you are under age and unable to return to your native country, you, your guardian or your lawyer must work together to explain this to the Migration Agency's investigator.

It is good if you think about what happened to you before the asylum interview, in what order things happened and what year. It can be about yourself, your family, school, or important events in the world. Making such a "timeline" may be helpful to remember better and to tell you why your parents or you had to flee. If you are prepared, there is less risk that you get very stressed at the interview.

Having a timeline is also good for explaining how you know your age. If the Migration Agency's case-officer suspects you are older than you have said, your age may be changed. This may happen because you are registered with a higher age in another EU country or because you cannot prove that you are under 18. It is good if you have own documents showing your age. Your teacher, your social secretary or the adults you meet at the residence may write to the Migration Agency that you do not seem to be an adult. But it is not certain that this helps.

If the case-officer does not consider it very clear that you are much older than 18, then you will receive an X-ray examination of your teeth and knees before your age is adjusted. The survey is voluntary, but age can be changed even if you do not take the examination

If the Migration Agency decides that you are over 18, you will continue to be treated as an adult by the authorities.

Then you will not have a guardian or live in a home for unaccompanied children. If you are considered as over 18, you may be expelled even if your relatives can not be found. However, if you still are considered as under 18 and receive a refusal, you will not be sent to your home country without locating your family or at least one orphanage taking responsibility for you. (An exception is when you have already received an asylum decision in another EU country, so you can be sent there alone even if you are under 18.)

If you applied for asylum at the latest on 31 January 2017, your age will not change until you receive a decision on your asylum case. However, if you applied for asylum after that date, age can be changed as soon as the investigation of age is complete. Such a decision on age assessment can be appealed. This means that you may try - with the help of your guardian or your lawyer - to get a court to change the decision.

If you are issued with an expulsion, you are entitled to appeal against that decision, and if the age was changed at the same time, you can raise the age issue also in the appeal.

The most important thing if you have to appeal a decision on expulsion is to mention if someone is threatening you or if there is something else you are afraid of in your home country, something that the Migration Board did not understand. Then you should stay for that reason and not just because your relatives are not there. If you need protection, then you are entitled to stay even if you are over 18.

If you have a time-limited residence permit, you are always entitled to apply for an extension when it ends. You may also get a longer permit if you go to senior secondary school. Read more about this on page 22.

5

Tjura sal
L...ålade med jord och
De... på väggarna
grotta. Det var för 15 0
Det var hästar och tjura.
Bilderna är... och bruna och.
Grottan...

YOUR RIGHTS AS AN ASYLUM SEEKER

The Act concerning Reception of Persons Seeking Asylum and Others (1994:137) regulates what rights to grants, housing, healthcare and other matters you have as an asylum seeker in Sweden. Children's rights are covered by the UN Rights of the Child Convention, which Sweden has ratified. Since the Convention has not wholly been converted into Swedish law, it is not entirely applicable here. However, it should still affect all decisions.

Health care

Adult asylum seekers have the right to:

- emergency medical care
- emergency dental care
- maternal care
- assistance during delivery
- contraceptive advice
- abortion
- treatment according to infectious disease legislation
- treatment that cannot wait.

THAT TREATMENT CANNOT WAIT means that the condition could develop into a life-threatening one or lead to other serious consequences if not treated quickly. Whether this applies in your case or not is decided by the person responsible for your treatment (this could be a doctor, nurse or other healthcare worker). Upon arrival in Sweden you also have the right to a medical examination or a conversation about your health situation.

Asylum seekers prove their right to medical care by displaying a card – the **LMA CARD** that all asylum seekers receive upon registration of their asylum applications.

At every visit to the doctor's you will pay a patient fee of 50 crowns. You will also pay 50 crowns for every medication prescribed by the doctor (these prices were applicable in 2017). The rest will be paid by the Migration Agency. If you require frequent care there is a possibility to apply for additional support. It is not impossible that you may receive treatment above and beyond immediate and urgent care, but in that case you must pay the full cost yourself.

The healthcare and social welfare sectors have laws of professional confidentiality that apply to everyone, regardless of whether you have residency or not. According to the law, no information about you may be given to anyone unless that is what you want. One exception is if your lawyer submits a health certificate on your behalf, in which case the Migration Agency is entitled to demand additional information from the health services in order to assess it.

Children and healthcare

An asylum seeker who is a minor has basically the same rights to medical and dental care as any other child living in Sweden. This means that it is free in many parts of the country, while you may be required to pay a certain fee in other parts. Dental care is al-

ways free for children. Children may sometimes be denied longer treatments if it is assumed that they will be unable to complete the treatment and incur injuries from it if they do not stay in the country for the entire time.

In certain cases parents can also be offered treatment at a family centre, for instance if this is considered necessary for a child to recover.

Children also need to display an LMA card on request.

Education

Asylum seeking minors have the right to childcare, preschool and school just like other children in Sweden. All asylum seeking minors have the right to go to school. However, unlike most other children in Sweden, asylum seeking children are not obliged to attend school. The municipality is obliged to provide schooling within a month of the child's application for asylum. Children have the right to attend a **PREPARATORY CLASS**, where they can be given extra Swedish lessons for up to two years.

Asylum seekers of the appropriate age can attend high school. If you are not yet 18 you have the right to apply to go to senior secondary school and if you attend an introduction programme or a national programme, then you have the right to complete that programme. In some places organized studies or other activities for adults, mostly by NGOs.

If you are unaccompanied and turn 18, you may be moved to a home for adults and end up far from the school. If you prefer to find your own accommodation, then you can do so but you will not get any money for the rent. In some places the municipality or voluntary organisations help with housing. Find out what the situation is in your own municipality! If you move, ask your

teacher for a certificate on what you have learned and take it with you to the senior secondary school in your new town. You have the right to complete the programme you were enrolled in or a similar one.

Work

If you have identity documents approved by the Migration Agency, you as an asylum seeker are entitled to work without a work permit – this is called **"AT-UND"** an abbreviation of "exemption from a work permit". Even if you are not in possession of identity documents, you may work if the Migration Agency case workers are of the view that you are trying to participate in verifying your identity. If you are to be expelled with immediate effect or are to be transferred to another Dublin country you cannot work even if you have identity documents.

If you do not need to have a work permit this should be recorded on your LMA card. When you start working, your daily allowance will be decreased (see below) in accordance with your income, and can be withdrawn completely.

The conditions for asylum seekers are different from those of other workers in Sweden. For instance, you are not entitled to sickness benefit if you become ill, you just keep your normal daily allowance. However, you do have the right to join a union if you wish.

Even if you cannot find work straight away it is in your favour to apply for a so-called A-tax document as soon as you have received your LMA card. The tax document can make it easier for you to get a real job, and later on you can prove that you are eager to earn your own living and work legally in Sweden.

Housing

You have the right to live without paying rent at a **RECEPTION UNIT, OR CAMP (ABO)**. Although it is called a camp, it can mean that you will be given an apartment in a normal residential area, or share such an apartment with other asylum seekers. You can also arrange **YOUR OWN HOUSING (EBO)**. If you live in the designated housing the Migration Agency will cover the rent, but if you live in your own housing you will be given no such financial assistance unless on a temporary basis if you move to another place where you have a job. Many asylum seekers choose nevertheless to live in their own housing. If you start living on your own and then for whatever reason wish to stop doing so you can talk to the Migration Agency and request a room in one of their buildings. But if you have been offered accommodation earlier by the Agency and turned it down there is a risk that you will be denied a new offer if you return.

You may also move from Migration Agency housing to your own apartment at any time, but you will have to find that place yourself. If you have relatives with whom you could stay, through EBO, you should find out what the situation is like in that particular area and whether you are likely to be able to find your own apartment and employment there in the future – or whether it might even be easier for you to find a job there.

If you are under the age of 18 and unaccompanied, without a parent or other guardian, you do not live like adult asylum seekers. You should be offered a place at one of the local homes for unaccompanied minors. After a short period of time in one of the cities where asylum seekers are registered, you should be assigned housing at a youth home for asylum seekers, or in a family.

Unaccompanied children who are placed in a municipality have the same rights as everyone else living there. This is stated in the Social Services Act (2001:453).

When you have turned 18 the municipality is no longer responsible for you and you are no longer entitled to a guardian.

[Read more about guardians \(god man\) on page 129.](#)

The municipality can allow you to stay at the youth residence until you are 21 but it is more likely that you will be moved to an adult residence by the Migration Agency as soon as you are 18. If the Migration Agency, after an age evaluation, concludes that you are in fact an adult it is likely that you will be transferred from the youth residence straight away.

Daily allowance

As an asylum seeker you are entitled to a daily allowance if you have not brought money or are able to support yourself in some other way. The daily allowance is low and is intended to cover the most important things.

The daily allowance for children cannot be decreased but the allowance for adults can be decreased or completely withdrawn, for instance if you, according to the Migration Agency, “obstruct” the handling of your case. This could mean that you have gone into hiding to avoid deportation or that you are not cooperating in procuring documents that would prove your identity. Even if you are in fact unable to prove your identity, the Migration Agency can claim that you are not being cooperative. Decisions regarding decreased or withdrawn financial allowances can be appealed to the county administrative court. You can write the appeal in your own language. Enclose a written copy of the Migration Agency's decision.

[You'll find more information on the Migration Agency's website: \[www.migrationsverket.se/Privatpersoner/Skydd-och-asyl-i-Sverige/Medan-du-vantar/Ekonomiskt-stod.html\]\(https://www.migrationsverket.se/Privatpersoner/Skydd-och-asyl-i-Sverige/Medan-du-vantar/Ekonomiskt-stod.html\)](https://www.migrationsverket.se/Privatpersoner/Skydd-och-asyl-i-Sverige/Medan-du-vantar/Ekonomiskt-stod.html)

After the expulsion decision

If you are an adult and not living with the children you have custody of, your right to accommodation and daily allowance end soon after you have received a final decision on expulsion. The decisive factor is that the expulsion order became final, it cannot be further appealed. This is a restriction which was introduced in June 2016 to the law on the reception of asylum seekers, the LMA-law. In August 2017 a similar rule was introduced for persons who have a decision on transfer to another EU-country in accordance with the Dublin Regulation.

After the expiry of the deadline for voluntary return (usually four weeks), you will be told that you must leave the accommodation, if you live at the Migration Agency's accommodation. You will also be asked to hand in your bank card and LMA card. You should make a copy of your LMA-card and use it for example if you need health care while you are still in Sweden. You may need to prove that you are a former asylum seeker and not a tourist.

Exceptions can be made for those who are temporarily seriously ill just when the decision comes, and even for those who collaborate on the execution of the expulsion but where the expulsion for some reason still has not been able to be carried out.

If you have been granted a new asylum assessment due to impediments to enforcement, you are entitled to get accommodation and daily allowance again. But you must apply yourself for this to the Swedish Migration Agency. Unfortunately, there is no entitlement to assistance in anticipation of the Swedish Migration Agency making an initial decision on a new assessment, even though the expulsion cannot be enforced during that time.

If you believe that your assistance has been withdrawn incorrectly, you should first take it up with the Migration

Agency's reception officer, and ask for a written decision if you have not received it. The decision can be appealed to a court.

Migration Agency staff have no right to use force to get you out of the accommodation. Ultimately, however, the police are called in. The social welfare authority in your municipality has responsibility for all those living there. You can request emergency help. However, the municipalities have no legal duty to give support to a person with an expulsion decision. Many municipalities interpret the situation as the only help they can give is money to travel to the home country.

YOUR RIGHTS IF YOU ARE UNDOCUMENTED

As an organisation, FARR does not encourage people who have been given final expulsion orders to avoid deportation by living in hiding in Sweden. If you consider it impossible to return to the country that you have fled from, it will be your decision to continue living in Sweden. If you live in Sweden without a permit your rights are limited.

It is not punishable by law to support a person avoiding expulsion, as long as the person giving the support is not doing so in order to make a profit or if the person in hiding is wanted for security reasons.

All children, both clandestine and asylum seekers, are covered by the UN Rights of the Child Convention, which Sweden has ratified. This grants all children rights – regardless of whether the child has residency or not. Since the Convention has not been transposed into Swedish legislation it is not fully applicable in Sweden, but it should still affect all decisions.

Health care

Since July 1st 2013, adults living in Sweden without a permit – as undocumented – have the same right to medical care as adult asylum seekers.

See page 142.

That means medical care and dental care that cannot wait, maternal care, assistance during delivery, contraceptive advice, abortion, treatment for certain infectious diseases regulated by law and one medical examination. What constitutes care that cannot wait is up to the health professionals you meet to decide. Each county council ("landsting", the body deciding on matters such as healthcare in a certain region) can offer undocumented adults the right to more extensive healthcare if it wants to. If you need treatment for something that is not mentioned above, you can try to find out what applies in the county where you live.

The first time you seek care you get a backup number (a **"RESERVNUMMER"**) that the hospital or clinic staff use instead of a personal identity number. It is important that you save this number and take it with you every time you seek treatment. It is also good if you can bring some form of identification (an ID card or a copy of it, a passport or an old LMA card). If you do not have any kind of ID, you are still entitled to healthcare.

The state covers the main part of the costs, but you have to pay a patient's fee just like asylum seekers do. The fee may vary between counties, but a doctor's appointment at a health centre costs 50 crowns. You also pay 50 crowns for every prescription the doctor writes for you.

🔗 You can find more information, in several languages, about healthcare for undocumented people at the Red Cross: <http://www.redcross.se/behover-du-var-hjalp/vard-och-behandling/roda-korsets-wardformedling>

The health care **CONFIDENTIALITY REGULATIONS** apply to everyone, regardless of if you have a residency permit or not. According to the law, health workers are not permitted to disclose any information that may harm the patient. The only exception is giving information to the police, but only if the police specifically ask for a certain person at the hospital. Then staff have to answer yes or no to the question. However, the staff are not allowed to call the Migration Agency or the police on their own initiative and tell them that you are there.

If you are worried that the police may come looking for you, ask the staff to tell you if they are contacted by police. You also do not have to give them your address. Instead, you can say that it is confidential. If the staff at the hospital do not know the law properly they might call the Migration Agency to find out where they should send the bill. The Migration Agency may then in their turn call the police. Therefore, it is important for you to tell them about your rights, and that it is against the law for health workers to call the Migration Agency and tell them that you are at the hospital. The law is called the Secrecy Act (1980:100).

Children and health care

Undocumented children have the right to all the medical and dental care that they need, in the same way that children born in Sweden do. However, long-term treatments can be denied children who are waiting for a decision. This is done in order to prevent injury to the child if the treatment is stopped before it is completed because the child has to leave Sweden. Health care for undocumented children shall be given on the same conditions as for children legally resident in Sweden. This means that it is free in places, and linked with a patient fee after the age of 12 in others. Dental care is free of charge until the child is 19 years of age. After that you will pay the adult fee. Clandestine children pay the full price for prescribed medication.

Sometimes the medical staff do not know what rules apply to children who seek medical attention but do not have the last four digits of their ID number, and they are unsure of how to handle payment and registration. Therefore, it is good if you yourself can inform the staff of the rules that apply. For medical care, you can refer to the municipality and county council's home pages, where there are directives about what applies in that particular place.

Support and help from the social services

Every Swedish municipality is responsible for all people in the municipality and this also applies to undocumented migrants. But each municipality has its own guidelines and a few have specific guidelines for undocumented migrants.

You can apply for care, treatment or other support due to mental health, addiction or disability. The social services can also decide on care when a child is exposed to mental or physical violence, or otherwise maltreated in his or her home environment or if the child poses a danger to himself by abuse, crime or other socially destructive behaviour. Persons exposed to violence in close relationships can be offered sheltered accommodation and support to process their experiences. Children who have witnessed violence should also be able to receive support.

You can also apply for financial assistance, but many municipalities do not grant it to undocumented migrants

The social services must accept your application, but they may decide to refuse assistance. You should always get a written decision. It is important to say that you cannot get help elsewhere and that the Swedish Migration Agency has no responsibility for you. Be clear that you have no other options nor can return to

your home country! You can provide a c/o address if you wish but emphasize that you actually live in the municipality.

Previously, the Social Service had an obligation to notify the police when someone sought help, but this no longer applies. There is confidentiality and social services must not contact the Swedish Migration Agency. The police do not have the right to ask the social services in general which undocumented migrants they know. However, employees are obliged to provide information if the police or the Migration Agency contact them and request information about named persons to be expelled or rejected. The Social Service is entitled to inform the persons that their information has been disclosed.

Education

Every child between the age of 6 and 18 has the right to go to school in Sweden. Since July 1st 2013, that also applies to children who live in hiding. Contact the headteacher at the school that the child wants to attend. The school staff do not have the right to notify the Migration Agency or the police, and you do not have to tell the school your address.

A child can start going to **PRESCHOOL CLASS** the year it turns six. There, the child can prepare for primary school. The primary school is open to children from the age of seven. In Sweden, children attend primary school for nine years. In both preschool and primary school, the children get books and lunch for free. After finishing primary school, pupils can choose to continue their studies at high school, **GYMNASIET**. There are many different programmes to apply for and it is the pupils' grades that determine to which ones they will be admitted. Most high school programmes take three years to complete. If you embark on a high school education while you are under 18 you have the right to finish it even after you turn 18.

Undocumented children and young people with intellectual disabilities have the right to attend special education programmes, "SÄRSKOLA", where they get tuition that is tailored to their needs. All education for children is free in Sweden and if the child needs transport to school, the school has to arrange it.

🔗 The Swedish National Agency for Education has published a handbook about undocumented children in school: http://www.skolverket.se/om-skolverket/publikationer/visa-enskild-publikation?_xurl_=http://www5.skolverket.se/wtpub/ws/skolbok/wpubext/trycksak/Record%3Fk=3493

Work

If you had the right to work prior to your decision, you lose it once you have definitively been denied asylum. If you have had a normal job and paid taxes you might be able to continue doing this, for instance if your employer does not discover or care about your change of status. The taxation authorities do not automatically disclose information to the police about individual workers. However, the taxation authorities and the police do occasionally control work and residency permits in workplaces. If you have a black-market job you do not enjoy any employment security or right to sick leave. You do however always have the right to a salary appropriate to the type of work that you do, and a right to the salary you have been promised – verbally or in writing. This has nothing to do with a work permit. The work injury insurance covers everyone, regardless of permits. The trade union can try to protect your interests and can support you in case of conflict with your employer. Many unions do not organize people who lack work permits, but they might still, for example, help you get the salary you have been promised. In Stockholm, there is a trade union center for undocumented migrants operated by several unions.

🔗 The addresses can be found here: www.farr.se/adresser

If you have been disrespectfully met or badly treated

The Migration Agency's ombudsman for applicants

If you have been disrespectfully met or in some other way mistreated by Migration Agency staff you can seek advice from the Migration Agency's own Applicant's Ombudsman. The Ombudsman will receive and investigate your complaint, but cannot look at the evaluation of your reasons for asylum.

Get in touch with the ombudsman: <https://www.migrationsverket.se/English/About-the-Migration-Agency/Our-organisation/The-Applicants-ombudsman.html> or phone: 020-30 30 20.

The Parliamentary ombudsman (JO)

You can complain to the Parliamentary ombudsman if you think that you or someone else has been mistreated or disrespect-

fully met by a state authority or state representative in the handling of a case. JO should make sure that authorities and state representatives comply with the law and fulfil their obligations. However, JO can never change a decision or a judgement.

Here is the document for filing complaints to JO: www.jo.se

The Equality ombudsman (DO)

The Equality ombudsman works for the equal rights and opportunities of all and against all forms of negative discrimination – for instance discrimination on grounds of sex, gender expression, ethnic origin, religious belief, physical or mental disability, sexual orientation or age.

Information on how to report discrimination can be found on the website: www.do.se

You can contact the authorities in your own language. It is advisable to translate the headings into Swedish or English.



To find the member groups of FARR and other organizations that provide support or information to asylum seekers and undocumented people, see:

www.farr.se/adresser

FARR

The Swedish Network of Refugee Support Groups is a politically and religiously unaffiliated umbrella organization. It assists refugee groups, asylum committees and individuals.

Contact

08-710 02 45
info@farr.se
www.farr.se

Chairperson

Sara Edvardson
Ehrnborg, Stockholm
sara.edvardson.ehrnborg@farr.se



APPENDICES

EU STATES

Belgium
Bulgaria
Cyprus
Denmark
Estonia
Finland
France
Greece
Ireland
Italy
Croatia
Latvia
Luxembourg
Lithuania

Malta
The Netherlands
Poland
Portugal
Romania
Slovakia
Slovenia
Spain
The UK
Sweden
Czech Republic
Germany
Hungary
Austria

DUBLIN COUNTRIES

The EU countries,
plus: Norway, Iceland,
Switzerland

EEA STATES

The EU countries,
plus: Gibraltar,
Iceland, Liechtenstein,
Norway

FULLMAKT FÖR OMBUD

Härigenom befullmäktigas _____

vid ett eller flera tillfällen, att företräda mig i ärende angående arbets- och uppehållstillstånd, flyktingförklaring och resedokument, häktning och förvarsfrågor, verkställighetsärenden, samt alla andra frågor som har något samband med ärenden om uppehållstillstånd.

Fullmakten innefattar behörighet att i angivna ärenden och vad därmed sammanhänger handla å mina vägar i alla hänseenden, och inför alla myndigheter, domstolar och organisationer och andra instanser, såsom Migrationsverket, förvaltningsrätten och kammarrätt, vid förhandlingar, vid utkvittering av handlingar och alla andra åtgärder som ärendet kräver.

Fullmakten innefattar behörighet att företräda undertecknad inför internationella instanser som övervakar Sveriges åtaganden beträffande mänskliga rättigheter.

Underskrift _____

Namn (textat) _____

Födelsedatum _____

Eventuellt ärendenummer _____

Datum _____

POWER OF ATTORNEY

Hereby, _____ **is,**

on one or several occasions, authorized to represent me in matters pertaining to work- and residency permit, refugee status and travel documents, arrest and detention issues, enforcement of expulsion, as well as other matters connected with residency permits.

The power of attorney includes in the above-mentioned matters and whatever pertains to them the right to act on my behalf in all manners in relation to all authorities, courts and organisations and other instances, such as the Migration Agency, the Administrative Court and the Administrative Court of Appeal, at negotiations, at the signing for release of documents and any other measures that the case may require. This power of attorney includes the authority to act on behalf of the undersigned before international bodies monitoring Sweden's commitments in relation to human rights.

Signature _____

Name (in capitals) _____

Date of birth _____

Case number (if you have one) _____

Date of signature and place _____



BECOME A MEMBER OF FARR

FARR is a network of individuals and groups whose aim is to enhance the right to asylum and to strive for a humane refugee policy based on solidarity.

Membership includes four issues of our publication Artikel 14, Sweden's only periodical devoted to refugee policy.

www.farr.se/sv/kontakt/bestallningar