



GOOD ADVICE

– for Asylum Seekers in Sweden.

FARR Flykting-
gruppernas
riksråd

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Sweden, 2018.

Stockholm United's summer camp for undocumented children and young people, No one is illegal (Ingen människa är illegal).

Photo Mohammad Zare.

FARR wishes to thank

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FRIDH ADVOKATBYRÅ

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**STOCKHOLMS
STADSMISSION**

This is FARR

The Swedish Network of Refugee Support Groups, 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. FARR has no ties to the Migration Agency or other authorities.

The first edition of *Good Advice for Asylum Seekers in Sweden* was produced in 2007 in cooperation with the Brotherhood Movement – Sweden's Christian social democrats, and co-financed by the European Refugee Fund. Since then it has been updated and translated several times in collaboration with various reviewers and funders, most recently at the beginning of 2022.

FARR's views on Sweden's asylum policy


Sweden's refugee policy is full of contradictions. Sweden is one of the industrial nations that used to grant the most residence permits in relation to its population, partly because so many people chose to come to Sweden. Asylum seekers have been received and treated more humanely in Sweden than in many other countries. At the same time, the proportion of people being deported has often been large. FARR was founded because we saw how individual asylum seekers were being treated with suspicion rather than respect, and how needs for protection were being defined away by the authorities responsible. People with good reason to flee have been forced to return or become undocumented migrants.

In recent years, Sweden's asylum policy has become more strict, with the express purpose of dissuading more people from making their way to Sweden. All new residence permits for asylum seekers are temporary. Many people who have been granted permission to stay are prevented by financial requirements from reuniting with their families. Reception conditions have been made more strict, at the same time as employability has become more important.

FARR opposes much of what we describe in *Good Advice*. Despite all the rules, we believe that many aspects of the asylum assessment are not in compliance with the rule of law. People who have come to Sweden in need of protection are forced to seek asylum elsewhere and the number of people in limbo without residence permits is increasing. This afflicts children and other vulnerable groups. Families being divided and the insecurity caused by different types of temporary permits makes integration more difficult for those who are granted the right to stay. We see an increase in mental health issues and refugees and support people losing their faith in the rule of law. At the same time, the worsening situation has increased voluntary mobilisation in support of asylum seekers and undocumented migrants.

FARR tries to influence legislative proposals and highlight shortcomings. But we cannot change existing laws or decide how they should be interpreted. The following chapters describe rules and practice without any comments on how things ought to be. The aim is for you as an asylum seeker to know the rules, your rights and what can affect your case. We hope this makes *Good Advice* a useful tool for you.

 For current information and statements from FARR, see farr.se

 To find *Good Advice* in other languages, see farr.se/goda-rad/


 FARR's response to the consultation on the Aliens Act of 2021: farr.se/farr-om-den-framtida-asyllpolitiken/

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Italy, Brindisi, 1991.
Albanian asylum seekers arrive.
© UNHCR / E. Dagnino.




The temporary Limitation Act no longer exists.

A temporary law applied to asylum seekers in Sweden and their close relatives between 20 July 2016 and 19 July 2021. That temporary law limited the duration of the residence permits that asylum seekers could be granted. The possibility of family reunification was limited. It became more difficult to be granted a residence permit because of distressing circumstances (humanitarian grounds). Later, the temporary law was amended again so that some young people, whose application for asylum would otherwise be rejected, could be granted a residence permit to study at senior secondary level or in vocational education.

On 20 July 2021, the temporary Limitation Act was repealed and a number of amendments were made to the ordinary Aliens Act. Many of these amendments are similar to the Limitation Act. Some of the rules concerning upper secondary schools remain as part of a new law, but that law is also temporary (it expires completely on 20 December 2025) and only applies to young people who have already had a residence permit under the rules in the Limitation Act.

This version of *Good Advice* is based on the rules in the Aliens Act as it has applied since 20 July 2021.

→ *For further information* about the current rules concerning upper secondary schools see page 70.

 *The Aliens Act* is available here:
riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/utlanningslag-2005716_sfs-2005-716


Are you a quota refugee?

This document is primarily aimed at people who have come to Sweden as asylum seekers. However, a few sections may still be of interest for you if you have been selected for resettlement in Sweden, namely the sections on *Close relatives*, page 19 and on *Residence permits*, page 66.

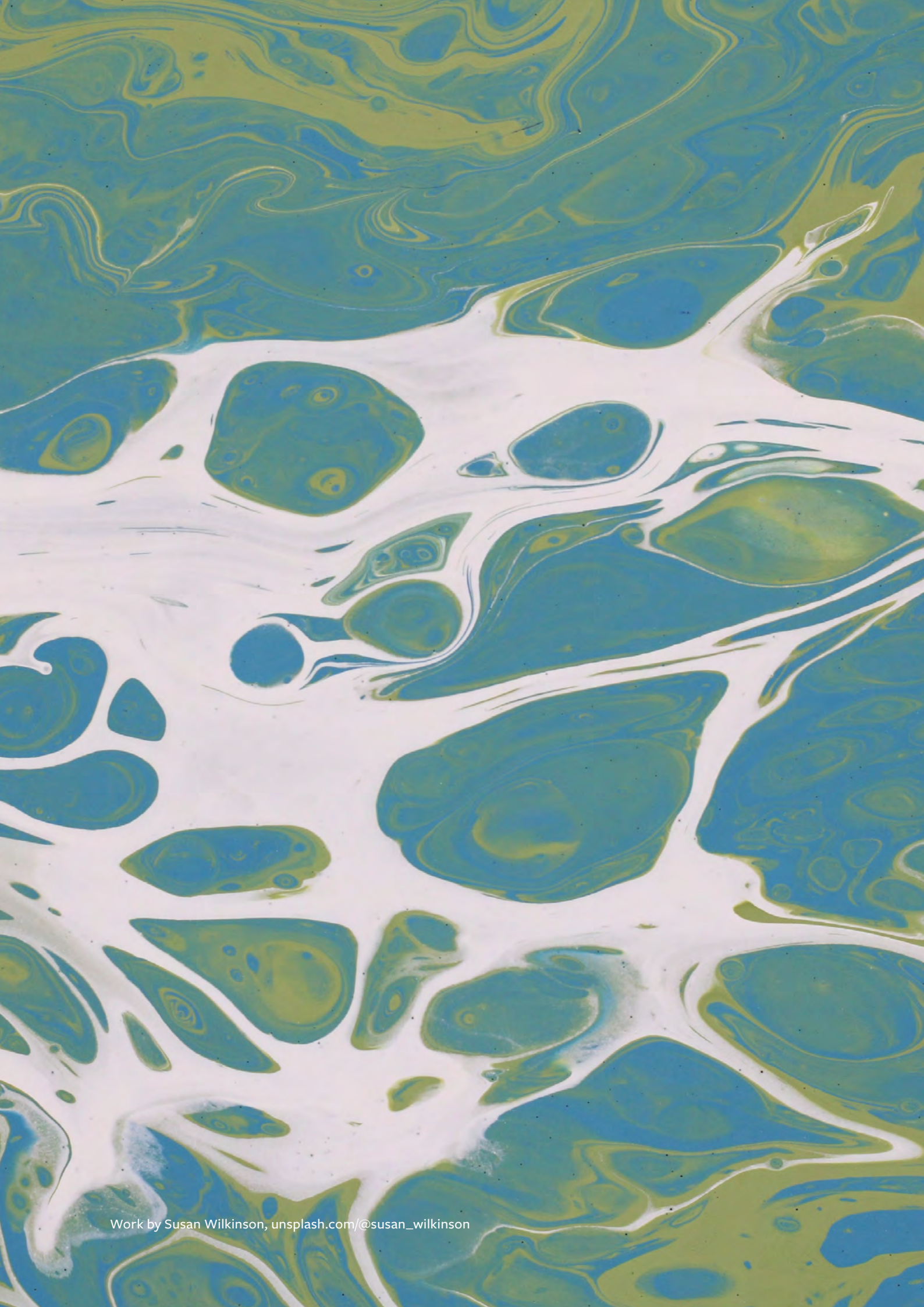
Have you fled from the war in Ukraine?

When this version of *Good Advice* was produced, people had begun to flee from Ukraine and the EU's Council of Ministers had just decided to invoke the Temporary Protection Directive from 2001 for situations with a "mass influx" of refugees. In Sweden, discussions were still underway as to how to interpret elements of the directive. We have included the most important rules for people who have fled from Ukraine in *Good Advice*. But some rules may be adjusted or interpreted in a different way than we assumed. Check for updates on the Migration Agency's website and with non-profit organisations!

 *Find the Migration Agency's information* at www.migrationsverket.se/

 *Also check for updates* at the Swedish Refugee Law Center, sweref.org/ and FARR, farr.se





1

WHO HAS THE RIGHT TO STAY IN SWEDEN?

The grounds of asylum seekers

To be granted the right to stay in Sweden – obtain a residence permit – an asylum seeker requires particular grounds. The Swedish Alien Act specifies which grounds are valid. It lists three types of grounds: needs for protection, distressing circumstances and impediments to enforcement. The duration of the permit you can be granted depends on your grounds for asylum.

Refugees and others in need of protection

Under the Alien Act, three categories of people are entitled to protection in Sweden: refugees, subsidiary protection rights claimants and individuals granted temporary protection in a situation with a “mass influx” of refugees.

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 section 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 obtain 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. In this context, the term *well-founded fear* means that you are afraid of what will happen in the future and that you have real reason to be afraid of this. What has already happened to you is not crucial, 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 on any of the seven grounds that are in the legislation, that is, their race, nationality, religious or political belief, or on grounds of gender, sexual orientation or other membership of 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 in reality, she merely writes critical articles.

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.

Perhaps you are not at risk of persecution based on any of the grounds enumerated in the refugee clause. However, you may still qualify for *subsidiary protection* if there is substantial reason 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

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 these two definitions (refugee or subsidiary protection rights claimant) is also referred to as *asylum*.

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 demonstrate that the state is unable or unwilling to offer you protection. You must also be able to demonstrate 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 from 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 should be assessed in a certain order. First, it is assessed whether you meet the criteria for a refugee. If you do, you are entitled to asylum and refugee status. If you do not meet the refugee criteria, it is assessed whether you are eligible for subsidiary protection. If you do, you have the right to subsidiary status and a residence permit. If not, then other grounds for a residence permit may be 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 residence permit if you risk persecution or, for example, come from a country that is considered too dangerous. However, the permit will be short-term and will not grant you every social right.

Adults and children of any gender can be in need of protection. If a family applies for asylum together, the grounds of each person should be assessed individually, including those of the children.

→ *For further information* see under Asylum investigations on page 43.

Temporary protection in a situation with a “mass influx” of refugees

Temporary protection in a situation with a “mass influx” of refugees is only applicable if the EU (European Union) has decided that everyone who has fled from a particular area should be granted temporary protection, regardless of their whereabouts in the EU. The rules can be found in the *Temporary Protection Directive* (TPD; Council Directive 2001/55/EC). The rules have also been written into the Swedish Aliens Act.

At the time of writing, in Sweden the Temporary Protection Directive is only applied to citizens of Ukraine, and people who have been residents of Ukraine having protection status, and their families. If you belong to one of these groups and entered Sweden no earlier than October 30 2021, you are entitled to a temporary residence permit in Sweden, regardless of your individual grounds. The Act refers to this as temporary protection, although it does not qualify as protection status and does not entail the same rights as refugee status or subsidiary status.

Under the EU decision, other groups may also be included, such as people who have been legal residents of Ukraine without being in need of protection. However, this is voluntary for the member states and is not applied in Sweden.

You can be denied temporary protection if you have committed war crimes, crimes against humanity or other serious crimes, or if you are considered to pose a security risk to Sweden.

Question: *What is the difference between refugee status and subsidiary status?*

Answer: The section on refugees uses the expression persecution. Persecution does not necessarily mean death threats or torture, it may consist of repeated harassment, threats, assault and various forms of abuse. On the other hand, to be considered a refugee you must be in danger of persecution based on one of the specific grounds listed in the section.

The section on subsidiary protection rights claimants applies to those who face particular kinds of risks, namely the death penalty, corporal punishment, torture or indiscriminate violence because of an armed conflict. Why someone is exposed to these risks does not matter – no conditions are listed. The section is mainly used for people who have fled war – armed conflict. If anyone in the area in question is at great risk, demonstrating that you are from there may be enough. However, it is more likely that you will need to demonstrate that you specifically are particularly exposed.

Both categories have the right to a residence permit. Most of the social rights that they entail are the same. Refugee status may mean that you are more likely to continue to be granted residency.

→ *For further information* about residence permits, extensions, etcetera see page 66 and onwards.

Distressing circumstances

Under the Aliens Act, you may be allowed to stay in Sweden even if the authorities do not think you need protection. For example, this can happen if you are very ill or have lived in Sweden for such a long time that it is difficult to go back home. In the Act, this is described as distressing circumstances. Not many people are granted residence permits because of distressing circumstances, as the grounds are usually not considered to be serious enough.

Residence permits may be granted

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, particular attention shall be paid to the alien's state of health, his or her adaptation to Sweden and his or her situation in the country of origin.

For a child, a permit can be granted in accordance with the first section if the circumstances are particularly distressing. The same applies for an adult who has resided in Sweden with a residence permit and during that time has special ties to Sweden. In making an assessment of whether there are special ties, ties may be considered which have arisen during the period of time between the application for asylum being made and the residence permit being granted.

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 what your situation would be like in your country of origin. Suffering from a serious illness, having special ties to Sweden after many years of work or education, or risking having to live in a refugee camp in difficult conditions if you were deported, are examples of circumstances which could suggest that you should be permitted to stay in Sweden.

The concept *exceptionally distressing* which is a requirement for adults means that exceptional situations are involved. Most of those who are permitted to stay because of distressing circumstances are families with children and children who sought asylum without a guardian (unaccompanied minors). For children, *particularly distressing* circumstances are sufficient, a slightly lesser requirement.

With regard to health status – how you feel – the assessments are very strict. It is not a sufficient reason that the quality of care is not as good in your home country as it is in Sweden. You must be able to demonstrate that your health would be damaged drastically or that you would die if you were deported. You also need to demonstrate that the treatment you are receiving in Sweden is working and that your health will improve in the long term.

Experiencing a difficult situation in your country of origin can also include being excluded from your social context or suffering from trauma because of being a victim of torture, similar difficult experiences in your country of origin or human trafficking. If you have survived torture you have certain rights of which your lawyer can inform the Migration Agency.

It is also very difficult to be permitted to stay in Sweden because you have adapted to living in the country. There is no rule that says that everyone who has lived here for a certain length of time is allowed to stay, it is the ties which have arisen during your time here that matter. Having worked for a long time and having other societal ties may be taken into consideration, as may family ties. But if you are an adult, the ties to Sweden are only recognised if they have arisen during the period of time in which you have been waiting for a decision on your asylum application or had a residence permit, that is, during your legal stay in Sweden.

Having lived in Sweden for many years may be taken into consideration for children, but everything depends on individual circumstances. The ties to Sweden are weighed against the contacts that the child has in the country to which the child would be deported. The time in Sweden that is judged an *illegal* residence can be taken into consideration, but the period of time for which the child has been waiting for a decision on the asylum application or had a residence permit weighs more heavily. Children are also considered to have stronger ties to Sweden when they are in their teens than when they are very young. It can make a difference if the children themselves talk about how their ties to Sweden arose.

For adult asylum seekers, having lived in Sweden for a long time has made very little difference in practice – it has not been enough to qualify as *exceptionally distressing* circumstances. Under the current Aliens Act, adults can also be permitted to stay because of *particularly distressing* circumstances if they have special ties to Sweden. However, this does not apply to undocumented migrants, but only to adults who have already had temporary residence permits which for some reason cannot be extended.

For children as well as adults, your bond to Sweden is weighed against your bond to your country of origin. Having ties to your country of origin, having lived there, speaking the language or having relatives who still live there can mean that your bond to Sweden is judged to be weaker. If there are several serious circumstances, they should be weighed together.

Sometimes your representative can refer to the *European Convention on Human Rights*. The Convention includes articles that protect people from inhuman treatment and from being uprooted from their social context if this has been built up over a long time. The *UN Convention on the Rights of the Child* can also be of importance.

Temporary impediments to enforcement

If you have been unable to prove that you are in need of protection or that there are particularly or exceptionally distressing circumstances, it usually means that you receive a deportation order – you must leave Sweden. But sometimes there is an obstacle which means that a deportation order cannot be carried out immediately. This is called a *temporary impediment to enforcement*. It can mean that you are granted a short-term residence permit. Sometimes the permit is granted at the same time as the deportation order.

For example, an impediment to enforcement can be that the country you were to be deported to will not receive you. If you came to Sweden as an unaccompanied minor, an impediment to enforcement can be that your reception in your country of origin is inadequate, that is, if there is no one to receive you if you are deported. This can lead to a residence permit because of an impediment to enforcement, which is only extended until you are 18 years old.

The term impediment to enforcement is also used to refer to obstacles that have arisen later, after the person received a deportation order, if they mean that the deportation cannot be carried out.

- *For further information* about living in limbo see page 77 and about impediments to enforcement after a deportation order see page 92.



Spår
3-4



Avgående tåg
Avgående till

Tid	Ny tid	Spår	Anmärkning
14:19	Karlskrona	4b	0-tåg
14:21	Cph Airport Köpenhamn	1b	0-tåg
14:24	Malmö Kristianstad	3a	Pågatåg
14:35	Malmö Lund Helsingborg	x	Nästa avg
14:39	Hässleholm Kalmar	4b	0-tåg
14:41	Cph Airport Köpenhamn	1b	0-tåg
14:44	Malmö Lund Höör	x	Nästa avg

Avgående tåg
Avgående till

Tid	Ny tid	Spår	Anmärkning
14:45	Svågertorp Oxie Ystad	2b	Pågatåg
14:59	Malmö	4b	0-tåg
15:01	Cph Airport Köpenhamn	1b	0-tåg
15:07	Malmö Lund Helsingborg	3a	Pågatåg
15:10	Malmö Lund Hässleholm	4b	0-tåg
15:14	Malmö Lund Helsingborg	x	Nästa avg
15:15	Ystad Sjörsjöhamn	2b	Pågatåg

Ankommande tåg
Ankommande från

Tid	Ny tid	Spår	Anmärkning
14:18	Köpenhamn Cph Airport	4b	0-tåg
14:20	Kalmar Växjö	1b	0-tåg
14:33	Kristianstad	2b	Pågatåg
14:38	Köpenhamn Cph Airport	4b	0-tåg
14:40	Karlskrona Karlshamn	1b	0-tåg
14:44	Helsingborg Lund Malmö	2b	Pågatåg
14:57	Helsingborg Landskrona	2b	Pågatåg

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Sweden, Malmö, 19 November 2015.
Asylum seekers in a registration queue.
© UNHCR / Johan Bävman



The duration of a residence permit

The most important changes in the Aliens Act compared with 2015 are the rules concerning the duration of residence permits and the requirements for permanent residency.

All the residence permits that are granted in Sweden are now temporary to begin with, and particular requirements must be met for them to be made.

If you have been granted temporary residency on the grounds of a need for protection, distressing circumstances or impediments to enforcement you are entitled to live and stay in Sweden for as long as your permit is valid.

Your permit can be renewed when it expires if you still have grounds for a residence permit.

- A residence permit based on refugee status is valid for three years*. It can be extended by two years at a time.
- A residence permit based on subsidiary grounds or on distressing circumstances is valid for thirteen months*. It can be extended by two years at a time.
- A residence permit based on *temporary impediments to enforcement* is valid for up to twelve months at a time.
- At the time of writing, all residence permits based on the Temporary Protection Directive are valid until 4 March 2023, with an extension until 4 March 2024. Under the directive, they can be extended for one more year, but that requires a new decision by the EU.

*A residence permit for a refugee or a subsidiary protection rights claimant may be granted for a shorter period of time if the person has committed a serious crime or is considered to pose a security risk to Sweden. It may never be granted for less than one year.

When it is time to extend a permit because of needs for protection or distressing circumstances, you can also apply for the permit to be made permanent, which means extending it for an unlimited period of time. In order to be granted permanent residency you must have had a temporary permit for at least three years and still be eligible for a residence permit.

You must also be able to support yourself financially by means of employment, and there may not be any risk of you committing a crime. There are rules which specify which types of employment are accepted and how much money you need to earn.

→ *For further information* about extensions see page 68.

Residence permits that are no longer granted

Until the summer of 2016 there was another ground for protection, *others in need of protection*. It was rarely used, but covered some asylum seekers from countries in armed conflict who for some reason could not be classed as being in need of subsidiary protection. People fleeing from environmental disasters could also be granted residence permits as others in need of protection. However, this category is no longer included in the Aliens Act.

In the temporary Limitation Act, it was possible to be granted a residence permit to study at upper secondary school or in vocational education. This opportunity was aimed at a limited group of the young people who had applied for asylum in Sweden without a guardian and received a decision under the temporary Limitation Act. No new residence permits are being granted under these rules anymore. However, at the time of writing, young people with these permits can still apply for extensions or permanent residency.

→ *For further information* about extensions of residence permits under the upper secondary school rules see page 70.

Close relatives

Families have the right to live together, according to several international conventions. In Swedish law, too, very close family members have the right to be reunited if one of them has been granted a residence permit in Sweden. However, this right requires certain conditions to be met. There are strict rules for when and how a family can be reunited and which family members are taken into consideration.

A family making a joint asylum application

If a nuclear family (defined as parents, and children under the age of 18) arrive in Sweden together and any one of the family members is granted a residence permit on the grounds of needing protection or other grounds, the whole family may usually stay. Another adult, who has become the legal guardian of a child, can also be granted a residence permit 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 join you in Sweden unless it can be arranged through the Dublin Regulation, because you are all seeking asylum in Europe. The following rules apply to those who have been asylum seekers and been granted a residence permit or are Swedish citizens. (For labour migrants and people with the right to reside in Sweden under EU rules, for example, other rules apply). One basic principle is that your family members should apply for family reunification from abroad, that is, before they travel into Sweden.

→ *For further information* about the Dublin Regulation see page 36.

In terms of family reunification, the family member in Sweden is called the *sponsor*. To be a sponsor you must be living in Sweden legally, for example as a Swedish citizen or with a permanent residence permit. A temporary permit may be enough if it has been granted to you because of a need for protection, distressing circumstances or a long-term impediment to enforcement. At the same time, it must be likely that you will eventually be granted permanent residency. In most cases, you must also be able to support the members of your family financially. If you are a refugee or have been granted subsidiary status, you may need to make your application as soon as you have been granted a residence permit, so as to avoid a high maintenance requirement – see more on this below.

If you have been granted a residence permit because of employment your family may be granted residence under specific rules, see page 25.

You cannot act as a sponsor under these rules if you have been granted temporary protection under the Temporary Protection Directive. However, your family members (spouse or cohabiting partner and children under the age of 18) are entitled to temporary protection in the same way that you are.

Spouses and cohabiting partners

If you fulfil the conditions for being a sponsor, your partner (spouse or cohabiting partner) is entitled to live with you in Sweden. This also applies to partners and spouses of the same sex. However, both of you must be over 18 and neither of you can be married to anyone else. You must be able to prove that you are married or have lived together.

If you are not yet married or living together, but merely planning to get married or live together, you may still be permitted to be reunited. You will need to demonstrate that the relationship is serious, by answering questions about each other, for example. If you only have a temporary permit your relationship must also have been established before you left your country of origin.

Children

If you or your partner has a child under the age of 18, the child is also entitled to come to Sweden. The child is required to have lived with the parent at some point and the child must not have more substantial ties to a parent residing in another country. The child must also be unmarried.

Usually, it is the child's age when the Migration Agency makes its decision that counts. But in some cases, such as if the parent has come to Sweden to get married, or if the parent has a residence permit to study or work, the child must still be under 18 when the decision about family reunification is made.

Parents

The parent or parents of children who have applied for asylum in Sweden as unaccompanied minors, and then been granted refugee status or protection on subsidiary grounds, also have the right to move to Sweden. If the parent applies for family reunification more than three months after the child has been granted a residence permit, the application is only granted if the child will still be under 18 when the parent receives the decision. The requirements for sponsors are different in these cases. The duration of the child's residence permit does not matter, but the child may not have become a Swedish citizen. Siblings under 18 may accompany the parent as close relatives.

Other close relatives

Under the Aliens Act, the Migration Agency may also grant residence permits for family reunification to other close relatives who are dependent on each other, such as a child who is over the age of 18. However, the application must be made shortly after the sponsor was granted a residence permit. There is no specific time limit. The period of time since the relatives were separated may also not be too long, and they must have lived together right before they were separated. Moreover, the close relatives must be unable to obtain support in any other way.

The Migration Agency may also grant a residence permit to a parent who is the legal guardian of and lives with a child, or a parent who has the right of access to a child. But this is only applicable if the child has permanent residency or is a Swedish citizen.

The application for residence permits for close relatives must be submitted from your country of origin or from another country in which the relatives have the legal right to reside. It is often quicker to apply online but you can also submit an application at the Swedish embassy or consulate. While the decision is being made your relatives do not have the right to be present in Sweden.

→ **More information** about exemptions can be found in the section Close relatives who are in Sweden, page 22.

Passport requirements

In order for family members to be allowed to enter Sweden they must have valid passports and be able to establish their identity. In most cases these requirements are fulfilled by having a passport from the country of origin. If they do not have passports from their country of origin, in exceptional circumstances they can establish their identity in another manner, for example using other types of identity documents. All-in-all, it is very difficult for families to be reunited in Sweden if they come from a country without functioning authorities that can issue identity documents.

If it is completely impossible for close relatives to obtain identity documents, a DNA analysis can be carried out. The DNA-analysis cannot prove anyone's identity, merely confirm the biological ties between children and parents. In some cases, this can lead to the requirement for a *certified identification* being lowered to a *probable identification* and then a joint assessment for the whole family. However, the identification requirements are usually only reduced for some countries, where no one can obtain acceptable identity documents. Moreover, they are not reduced if there are any other doubts in the investigation, for example, if a couple's accounts contradict each other at some point.

If the identities of the close relatives have been sufficiently investigated, and they are considered to be entitled to residence permits but do not have any documents that can be used for travelling, Sweden may issue temporary aliens' passports for the journey.

Subsistence requirements

If you are an adult and live in Sweden the general rule is that you must demonstrate that your accommodation is spacious enough and that you can support yourself and your family financially before your close relatives are granted residence permits. These criteria are called subsistence requirements. The number of 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.

When spouses or cohabiting partners are to be reunited and the sponsor is a Swedish or EEA citizen, there are no subsistence requirements if their relationship is well-established, if they have lived together for a long time in another country for example. Having children together may be weighed in, but it may not be sufficient evidence that the relationship is well-established.


If the sponsor, that is, the family member with a residence permit in Sweden, is a child there are no subsistence requirements. However, just because there are children in the family, it does not mean that there are no subsistence requirements. For unaccompanied minors, it is their age at the time of their application for asylum that counts.

It is also possible to be exempted from the subsistence requirements on *particular grounds*. This could be that you cannot work because of your age or disability.

People having refugee or subsidiary status can also be exempted from the subsistence requirements if three conditions are met:

- the application is submitted within three months of the person in Sweden being granted a residence permit,
- they cannot be reunited in any country outside the EU, and
- the relationship existed before the sponsor travelled into Sweden.

All three requirements must be met in order to avoid subsistence requirements.

 **Detailed rules** about being granted permits from abroad based on family ties can be found at migrationsverket.se. You will also find forms there to fill in.

→ A *list* of EEA countries can be found on page 132.

Close relatives who are in Sweden

If you are already in Sweden and apply for a residence permit because you are a close 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 currently have an asylum application lodged with the Migration Agency, or if you are in Sweden legally with some kind of residence permit, so not just as a tourist.

If you apply for asylum while your partner and/or child is already living in Sweden you should mention the relationship in your asylum application. You can also put it forward later in the procedure if the relationship has arisen during your stay in Sweden.

The law states that decision-makers should take into particular account that children may 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 demonstrate that there is no doubt that you would have been granted a residence permit if you had applied from abroad. That means that your application could be denied if, for example, you have been living in Sweden *without a permit* for a long time.

You need to provide specific reasons for not being able to travel to your home country, or explain why your child, in particular, would suffer from the separation. You must also be able to substantiate your identity by means of a passport in the same way as if you had applied from abroad.

Duration of permits for close relatives

- A permit to join a person with a temporary residence permit is valid for the same period of time as the time that remains for the sponsor. It can be extended for two years at a time as long as the relationship still exists.
- A permit to join a person living permanently in Sweden is valid for two years. It can be extended for two years at a time as long as the relationship still exists.

After at least three years with a residence permit, a close relative can apply for permanent residency instead of a two year extension. The ties to the same person must still exist. Adult close relatives must be able to support themselves financially by means of employment, and there may not be any risk of them committing a crime. If the person is employed, parental benefits or sickness benefits can also be accepted. There are rules which specify which types of employment are accepted and how much money the person needs to earn. Each family member will be assessed individually, so not everyone may be granted permanent residency at the same time.

→ *For further information* about temporary permits becoming permanent and exemptions from the requirements see page 69.

Question: *Can I get married in Sweden as an asylum seeker?*

Answer: 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 particular procedure called an “investigation of impediments to marriage” (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 assessment is carried out by the local tax authority and you need to provide valid identity documents, preferably a passport.

If you have identity documents you can get married even if you are undocumented, for example 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.

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

Answer: If you have children who live in Sweden and there is a risk of a lengthy separation from them it is possible that you may be allowed to apply from Sweden, but only under certain conditions – see above under *Close relatives who are already in Sweden*.

Otherwise, the rule is that you should apply from your country of origin – or from another country where your stay is legal.

You need to stay for a while in the country where you submit your application, as you may be summoned to the Swedish embassy for an interview. If you are granted a permit you also need to pick it up at the embassy.

It is possible to submit your application in any country where you have an address, but the embassy is not required to handle your case if you are not permitted to be in that country.

Not every country has a Swedish embassy to process applications. In such cases there should be an embassy, often in a neighbouring country, which is responsible for dealing with these applications.

Question: *My partner comes from another European Union country and lives in Sweden. Am I entitled to live in Sweden too?*

Svar: Yes. If your spouse or cohabitant is a citizen of another EU or EEA country and lives and is financially self-supported in Sweden you are automatically entitled to live here. This is called a right of residence. You simply need to report to the Swedish Migration Agency to obtain a residence card.

This also applies to people with dual citizenship, if one of them is in an EU state. However, your partner cannot only be a Swedish citizen. Your partner must also have made use of his/her/their freedom of movement, for example, by moving to Sweden from the other country. You must have a valid passport and health insurance (either through your partner's employer or by other means).

→ A list of EU/EEA countries can be found on page 132.

Question: *I want to live with my partner in Sweden, but first the Migration Agency wants to assess whether our relationship is serious. How does it do that?*

Answer: If you are not married but are going to be (or if you wish to live together but did not share a home before you came to Sweden) the Migration Agency will investigate whether it is a so-called serious relationship. This is called a "seriousness assessment".

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 already married or living together, you should not usually have to undergo a seriousness assessment. However, you must be prepared to be interviewed about your relationship, to demonstrate that you genuinely are a couple and have not married or moved in together simply to be granted residency (a marriage of convenience).

Of course, all the other conditions for family reunification must also be met. Note that if the person who lives in Sweden has a temporary residence permit, family reunification is not permitted unless you were already married or cohabiting in your country of origin.

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. However, these rules will still be included here because many of those who need to seek asylum in Sweden arrive here after obtaining a work permit. Sometimes people who have been asylum seekers are also offered jobs and need to apply for work permits.

A first application for a permit to work or study should be made from abroad. You may not travel into Sweden until your application has been approved. There are some exceptions for *switching tracks* once you are already in Sweden for other reasons. For further information, see below.

Work permits

To obtain a residence permit because of work, you must have a job offer in Sweden. The job should have been advertised for at least ten days across the EU – which should be done through an advertisement at the Swedish Public Employment Service. As of 1 June 2022 an employment contract is also required.

The work need not be full-time, but the salary is (at the time of writing in 2022) to be at least 13,000 Swedish kronor per month before tax. The conditions should be approved by the trade union with which employers in the sector usually conclude agreements. Demands are also placed 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 as a job-seeker and the employer that hires you.

Once you have the job offer or the employment contract, you can apply for a work permit and a residence permit. This can also be done online, but you will also need to visit an embassy. First-time work permits are not usually issued if you are already in Sweden. You must have a passport that is valid for the entire duration of the work permit.

If you receive a residence permit for work, your spouse and children under the age of 21 can be granted a residence permit for the same period of time if they apply at the same time as you. It is also possible to apply later. Previously there were no subsistence requirements for close relatives applying at the same time as the person who had a job. As of 1 June 2022 there are subsistence requirements no matter when the family applies. These mean that you must have accommodation for your family and a high enough income to be able to support them financially, just as in other family reunification.

→ *For further information* on the rules for families, see the Migration Agency's website: migrationsverket.se/Privatpersoner/Arbeta-i-Sverige/Tillstand-for-familjen.html

If you wish to extend a temporary work permit, you should apply for this before it expires. You are allowed to change employers, but if you do so 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 you leave your job. For the work permit to become permanent, you must have worked with a permit for a total of four out of seven consecutive years. You also need to be able to support your family financially, even though this was not a requirement to start with. Adult close relatives can meet the requirements for a permanent permit by supporting themselves financially.

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.

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 at the Migration Agency's website. There are requirements for the company's structure, liquidity and plans for the future. You must apply for the residence permit from your home country or a country where you are entitled to live. You must have a valid passport.

Studies

In order to obtain a residence permit for studies you must have applied and been accepted to a study programme, for example, at a college or university. You will also have to demonstrate that you have enough money saved to be able to support yourself financially while you are studying. At the time of writing in 2022 the sum required is 8.694 Swedish kronor per month, but if you can demonstrate that your accommodation and/or food will be free, the amount can be reduced somewhat. If the course lasts for less than one year, you must also have comprehensive health insurance. Most courses also cost money. There may be scholarships that you can apply for.

In order for a residence permit for studies to be extended, the pace of your studies needs to have been normal, unless you have particular reasons for needing longer. You cannot be granted a permanent residence permit for studies.

You can apply for a residence permit for studies using online forms, but if you receive a residence permit you must pick it up from an embassy. The permit is temporary to begin with, but can be extended.

Switching tracks

If you have had a temporary residence permit because of marriage, work or studies, you can apply for a residence permit for other reasons, for example because you have studied but have now got a job and started a family in Sweden. You should usually apply for such permits from abroad. But if you apply before your residence permit expires you can request to make the application from Sweden. This can be approved if you have reasons for not leaving Sweden, especially if you have fulfilled the requirements for the earlier permit.

It is also possible to seek asylum after travelling to Sweden with some kind of residence permit. However, if there is a delay before you seek asylum, the authorities may question whether you are really in need of protection.

→ *For further information* about how to apply for a work permit after having your asylum application rejected see page 99.

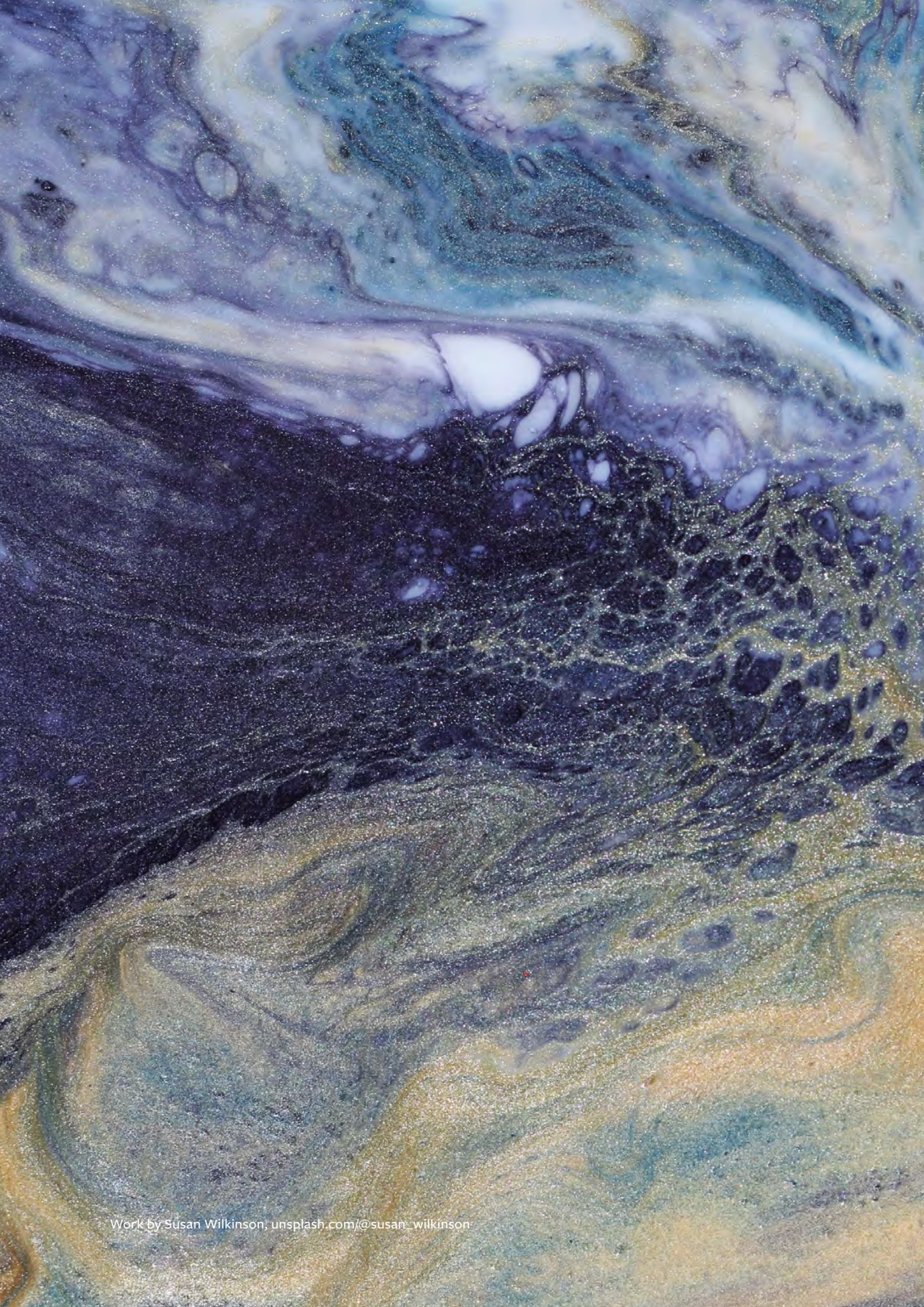
🔗 *Detailed rules* for obtaining a residence permit from abroad for work or studies are available at the Migration Agency's website. There you can also find the forms to fill in: www.migrationsverket.se





Jordan, Zaatari refugee camp, November 2016.
© UNHCR / Jaz Cummins





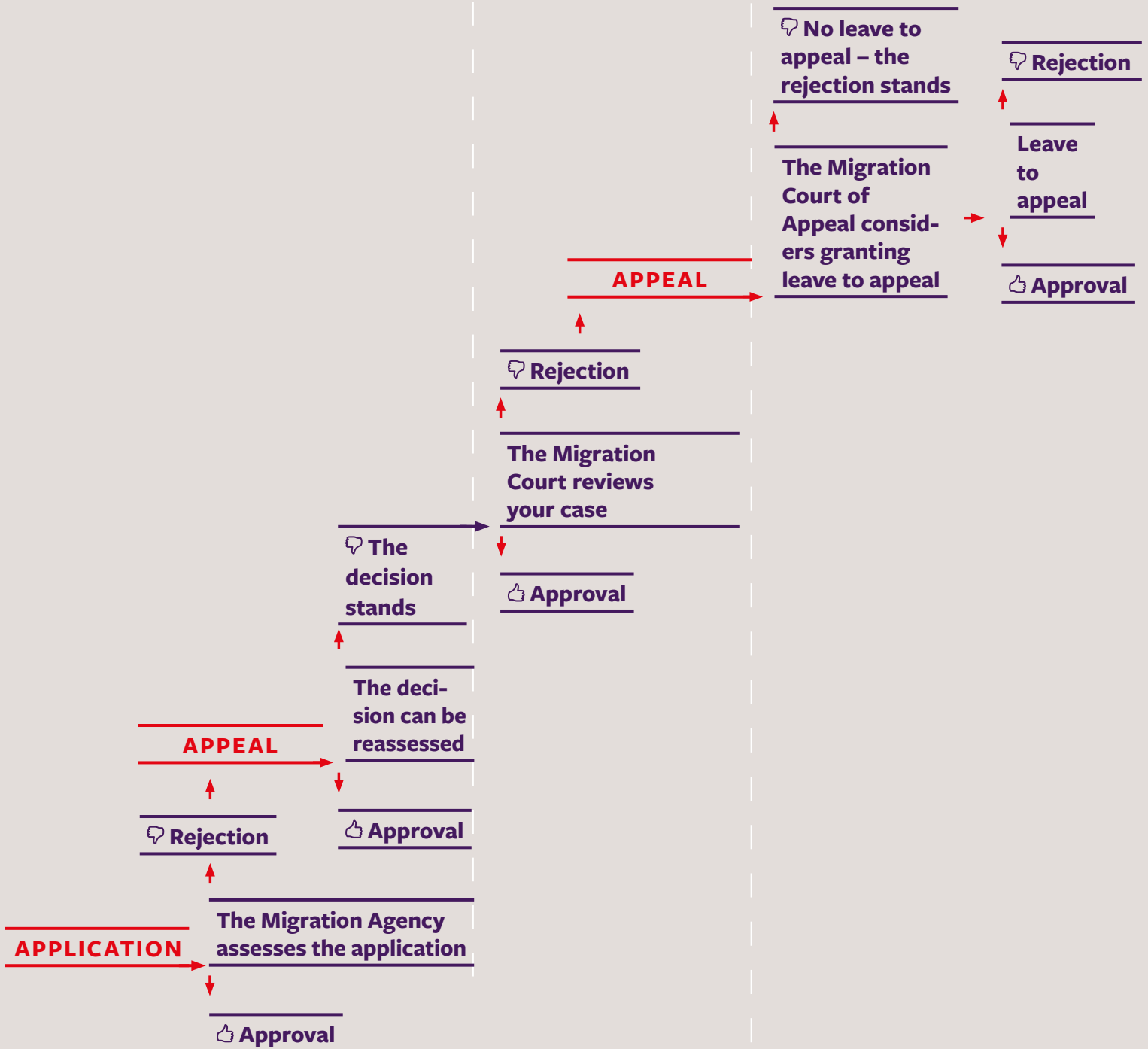
2

THE ASYLUM PROCEDURE

THE MIGRATION AGENCY

THE MIGRATION COURT

THE MIGRATION COURT OF APPEAL



First instance:

The Migration Agency

When you seek asylum in Sweden, your first encounter will be with the Migration Agency. This is the authority that decides who will be granted residency in the country.

You should apply for 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.

In order to be granted asylum in Sweden you must be present in Sweden. However, no visas are granted for seeking asylum. Therefore, many people turn to smugglers and cross borders outside the checkpoints. Others travel using visas or residence permits that they have been granted on other grounds and seek asylum once they arrive. People from countries whose citizens do not need visas to travel within the EU can enter Sweden without having a particular reason.

If you have travelled to Sweden without a permit it is particularly important that you apply for asylum as soon as possible, otherwise you may be picked up by the police. If you have a visitor visa or residence permit issued by Sweden you are entitled to be in Sweden. However, if you are going to seek asylum you should not wait.

→ *In the section on the Dublin Regulation on page 36 you will find information on the rules that apply if you have a visa that was issued by a different EU country.*

If you are a Ukrainian citizen applying for protection under the Temporary Protection Directive, there is less urgency. However, you do need to register your application within 90 days of travelling into Sweden. That is the length of time you are permitted to spend in Sweden without a visa.

Registering

When you reach the borders of Sweden (including airports) you can say that you wish to seek asylum. You will then be taken to one of the Migration Agency's application centres. These are located for example in Sundbyberg (outside Stockholm), Gothenburg (Göteborg) and Malmö. More application centres can be opened when many people arrive at the same time. At the time of writing in 2022, there is a temporary opportunity for Ukrainian citizens with valid identity documents to register their application online. At the Migration Agency's website you can find information about applying online and to which offices you can go in order to apply.

🔗 See the Migration Agency's website migrationsverket.se

The registration includes information such as your name, date of birth, citizenship and languages.

When your asylum application is registered, or at a later date, your fingerprints and photograph will be taken. The Migration Agency will also assess whether you are entitled to the financial aid that asylum seekers can obtain if they do not have money of their own. Children under 14 do not need to provide fingerprints.

You should also be asked about your health status and whether you wish to undergo a voluntary medical check-up. You will be requested to submit your passport from your country of origin if you have one. If not, the Migration Agency will ask for other identity documents, such as an ID card, a driving licence, a military service record, military service card or birth certificate. They will also ask whether you have any specific requests regarding which *public counsel* you would like (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 make a difference who your public counsel is and it may be a good idea to choose for yourself if you have the possibility. Contact voluntary associations for information on experienced public counsels.

Early in your asylum procedure, you may be asked to undergo a *language analysis*. The Migration Agency does this to see whether you really are from where you claim. You will be asked to speak while your voice is recorded. Then a linguistic expert, contracted by the Migration Agency, will listen to the tape and assess where your dialect belongs.

After you have applied for 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 are entitled to a daily allowance, a type of financial aid for asylum seekers. There are exceptions from that right depending on where you live.

→ *For further information* about your rights while you are an asylum seeker see page 55.

If you are under the age of 18 and you come to Sweden on your own, without your parents or someone else who is responsible for you, you will be placed in a foster home or youth residential facility. In due course you will also be assigned an *appointed (independent) guardian (god man)*, an adult to help you in your dealings with the Migration Agency, your finances and other things.

Fast-track procedure for temporary protection

If you come from Ukraine, have travelled into Sweden no earlier than 30 October 2021 and have a passport or some other identity document to establish who you are, fast-track decision on temporary protection can be made immediately after you are registered. In such a case, instead of an LMA card you will be given a *residence permit card (UT card)* which certifies your right to reside and work in Sweden. You will also be given back your passport. The information in the rest of this chapter on where your application should be assessed and the asylum procedure does not apply to you. If you believe that you are entitled to protection status you can still apply for this, without losing your temporary protection.

→ *For further information* about your rights while under temporary protection and applying for a declaration of protection status see page 61.

The Dublin Regulation: In which country can you seek asylum?

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, from where exactly you left and how you got to Sweden.

You will be asked whether you have passed through other countries before arriving here and whether you have kept the tickets for your trip to Sweden. The Migration Agency will then investigate whether your asylum application should be assessed here or in another country. You cannot decide for yourself where to seek asylum. Sweden, the other EU countries, and a few other countries have rules that determine this. The agreement is called *the Dublin Regulation* and the countries that have signed it are called *Dublin countries*. The idea is that you can only seek asylum in one of these countries.

As well as the Dublin Regulation there are rules that mean that your asylum application can be declared inadmissible (not assessed) because you already have protection or could be protected in another country.



Rzeszow, Poland, March 2022.
Temporary shelter for refugees from Ukraine.
© UNHCR / Maciej Moskwa.



How the Dublin Regulation works

The Dublin Regulation is applied in all EU countries as well as Iceland, Liechtenstein, Norway and Switzerland, called Dublin countries. It includes rules which determine which country is responsible for assessing an asylum application. There are several exceptions, including family reunification. These rules and exceptions are summarised below. The summary is not very clear as the Dublin Regulation includes details that can be interpreted differently in different countries.

- If you have already been granted a residence permit in another EU country the Dublin Regulation no longer applies, however, your application will still be declared inadmissible. *For further information, see page 41.*

If the assessment of your asylum application has already begun in one Dublin country, your case should continue to be dealt with in that country. This applies even if the other country has already made a decision on your case. This means that you may be forced to return even if your application was rejected.

The following points apply if the assessment of your asylum application has not yet commenced in any country.

- If you are a child under the age of 18 and applying for asylum on your own, then your application should primarily be assessed in a country where you have parents, siblings or other relatives, if this is in your best interests. If you do not have family members to reunite with, you are entitled to have your asylum application assessed in the country that you are currently in, without being sent to a different Dublin country.

If your age comes into question and the authorities decide that you are to be considered an adult, you can be transferred to a different country in accordance with one of the following points.

- If you are an adult and your spouse, cohabiting partner or children are in a Dublin country as asylum seekers or have obtained a residence permit there after seeking asylum, then you should be able to have your cases assessed in the same country. If none of your asylum procedures have yet commenced, you may be reunited in the country that most or the eldest of the family members are in.

It is important when you are seeking asylum to say from the beginning that you wish to be reunited, if your family members are in another Dublin country to which you also wish to go. Both adults must sign a form saying that they wish to be reunited.

- If you are not to be reunited with family members in another Dublin country, you should have your application assessed in the Dublin country that has granted you a residence permit or visa so that you could travel into the area. This applies if no more than two years have passed since the permit expired, or six months since the visa expired.
- If you did not have a residence permit or visa and did not apply for asylum at the EU:s external border, your entrance is classed as illegal. Then your application should be assessed in the country where you first travelled into the area.

If it is not possible to demonstrate where you entered the area but it is clear that you have spent five months in a Dublin country without a permit, your asylum application should be assessed there.

- If none of the above applies to you, your asylum application should be assessed in the country where you submitted it.

If you come to Sweden to seek asylum but it turns out that your application should be assessed in another Dublin country in accordance with one of these rules, you will receive a decision that you are to travel to that country. This is usually because of fingerprints that you have submitted in another country. They will be found in the register when you provide fingerprints in Sweden.

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, which will be understood as an acceptance.

While your case is being dealt with in accordance with the Dublin Regulation, you are not permitted to work in Sweden and you are not automatically entitled to a public counsel. You may request one but will usually not be granted one. Unaccompanied children are an exception – they are usually granted a public counsel and are always entitled to be aided by an appointed (independent) guardian (god man).

→ *For further information* about appointed (independent) guardians (god man) see page 127.

Coming to Sweden through the Dublin Regulation

If you have a family in Sweden but have registered your asylum application in another Dublin country, you can still request for your application to be assessed in Sweden. The greatest chance of succeeding is if you have a parent, a partner or a child under the age of 18 in Sweden, and if your family in Sweden is well-advanced in the asylum procedure or already has residence permits. Contact the authorities in the country you are in, tell them that you have family in Sweden and ask the authorities to request that Sweden takes over the responsibility for your case.

Being sent back to Sweden through the Dublin Regulation

If you have applied for asylum in Sweden but discover that your application will be refused, you may wish to try seeking asylum in another country instead. However, once you have started an asylum procedure in Sweden then Sweden has become the country responsible. This applies even if you have received a final rejection from Sweden. If you try in another Dublin country, then you risk not being permitted to seek asylum there. Not all Dublin countries interpret the regulation as strictly and someone's case may be assessed in a different country even though they have already applied for asylum in Sweden. However, you cannot count on this. Usually, you will receive a decision to be returned to Sweden.

→ *See a list* of Dublin countries on page 132.



Otranto, Italy, September 1998.
Asylum seekers.
© UNHCR / E.Dagnino

Question: *How can the Migration Agency know where I have been?*

Answer: All asylum seekers in a Dublin country over the age of 14 must provide their fingerprints. The fingerprints are stored in the EU database EURODAC. A similar database exists for visas issued. The migration authorities of these countries can search these databases and if you have applied for a visa or 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. Sometimes people are also registered as asylum seekers on entry without intending to seek asylum.

If, when you submit your application, the Migration Agency finds evidence that means you should be sent to another Dublin country, you will be informed of this immediately and you will probably not be summoned to another oral investigation. If the information turns up later on in the process 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 Dublin country responsible, you may appeal to the Migration Court in your own language.

→ *For further information about appeals see page 47.*

Question: *Do countries have to follow the Dublin Regulation?*

Answer: No. Every country may assess a person's asylum application if it wishes to do so. The Dublin Regulation also has a particular exemption that prohibits transfers to countries where reception and asylum procedures have completely collapsed. Some factors that may affect whether an exemption is made are the reception conditions in the other country and the asylum seeker's personal reasons, such as their state of health and ties to a particular country.

Sweden and other EU countries stopped all transfers to Greece for a long time, partly because the European Court had ruled against transfers there. Later, transfers to Hungary were stopped. Other exemptions are extremely rare. Sweden believes that very particular circumstances are required to make individual exemptions and generally assumes that asylum seekers are treated in a like manner in all countries covered by the Regulation.

Question: *When does a Dublin decision expire?*

Answer: When the Dublin country responsible agrees to receive an asylum seeker it is called an acceptance. Once the acceptance has been given Sweden must transfer – send – you to the country responsible within six months. This period can be extended to twelve months if you are in prison or to eighteen months if you abscond.

If you have not been transferred within that time, the country that you are in takes over the responsibility for assessing your asylum application.

If the transfer decision is suspended temporarily at any time during the process, for example, while you appeal, then the time limit is adjusted from the date when the suspension is terminated. If you are in Sweden, you can contact the Migration Agency directly and ask.

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

Question: *Does the Dublin Regulation apply even if I have been deported?*

Answer: No, if you have been deported and travelled back to your country of origin, you can apply for asylum again in any Dublin country if you manage to get there. After the deportation has been carried out, the country you were deported from is not required to take you back. But if you have been issued a re-entry ban, you cannot travel in on a visa as long as the re-entry ban is in place.

The same is true if you leave the Dublin area of your own accord and remain outside it for at least three months. However, you must be able to prove this by means of documents and the standard of proof is very high. You may not have been able to apply for asylum in the country that you were in either.

Note that on returning to the Dublin area you must always arrive directly in the country where you wish to seek asylum to avoid becoming a Dublin case once again.

→ *For further information about re-entry bans see page 87.*

Question: *How are asylum seekers treated in other Dublin countries?*

Answer: Asylum seekers are treated differently in different Dublin countries. The differences may concern which rights asylum seekers have (for example whether they have the right to a legal counsel), reception and asylum procedures and who is granted a residence permit.

All Dublin countries have promised to respect the UN Refugee Convention and the EU countries are required to observe the same binding regulations and directives in their asylum assessments. However, there are also significant differences in the assistance available to asylum seekers when it comes to housing, financial support etcetera while the application is being processed.

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

🔗 *Contact* organisations in other Dublin countries at wzeu.info/

Other reasons for your asylum application to be rejected

If you have been granted asylum, that is, a residence permit as a refugee or subsidiary protection rights claimant, in another EU country, the Dublin Regulation is not applicable. However, your asylum application will still be declared inadmissible (not assessed). This is because you are already considered to have been granted protection, and no longer risk being sent to the country from which you have fled or where you are a citizen. This will occur even if the residence permit you have been granted in the other country has expired. You can be deported there even if you have been badly treated there. Once an EU country has recognised your protection status, that country is considered to be required to continue to make the decisions regarding your protection. A decision on the grounds that you have already been granted protection cannot be waited out in the same way as a Dublin decision. If, at the same time, you receive a decision that you must leave Sweden, it will be valid for four years and you risk receiving the same decision again if you try again after that. However, this does not mean that you may not visit Sweden. If you have a residence permit in one EU country you are entitled to travel within the EU and to visit other EU countries for up to three months every six months. From the other EU country it is also possible to apply for a work permit or for family reunification in Sweden. If you have been given a re-entry ban, it is reversed when you are granted a residence permit in an EU country.

Your application can also be rejected if you have been granted asylum in a country outside the EU. In order for this to happen, it must be certain that you will be received in that country and that you will be protected from persecution there and will not be transferred to some other country where you risk persecution.

Your application can also be rejected because you *could be* granted protection in another country. For example, this can be because you or your spouse have lived there before, that you have studied there or that you belong to a particular group that is entitled to citizenship there. The requirements for decisions like this are that you are able to seek protection in that country and that you do not risk persecution or inhumane treatment there. If you have even stronger ties to Sweden, for example close family here, your application should not be rejected.

If you are a citizen of an EEA country you cannot be granted asylum in Sweden either, but there are other opportunities for residence.

→ A *list* of EEA countries can be found on page 132.

Fast-track procedure and refusal of entry

When an asylum application is dismissed or rejected, you will also receive an order to leave the country. If it has been no more than three months since you applied, this order is called a *refusal of entry order*. (If it has been more than three months, the order is a *deportation order*.) If you have a residence permit in another EU country, you should be encouraged to travel there of your own accord before you receive a refusal of entry order or deportation order.

If you receive a refusal of entry order because you have already been granted protection in another country, in the EU or outside it, the Migration Agency can also decide that the refusal of entry is to be *enforced immediately*. The same thing can happen if your asylum application has been assessed but the Migration Agency considers it to be an *obviously unfounded application*.

An application can be considered obviously unfounded if the Migration Agency considers that the grounds that you have stated are not at all sufficient for a residence permit, or that what you say does not at all seem to be true. Another reason for your application to be considered obviously unfounded is if the country you are from is regarded as a *safe country*. In such a case, you must be able to prove that it would not be safe for you specifically.

At the time of writing in 2022, the countries that are regarded as safe are Albania, Bosnia and Herzegovina, Chile, Georgia, Kosovo, Mongolia, North Macedonia and Serbia.

If you receive a refusal of entry order to be enforced immediately, you are required to leave Sweden immediately. You may appeal, but you may not wait in Sweden for the response. Unaccompanied minors may not however be sent out of Sweden until at least one week after they have been informed of the decision. Therefore, if there is a risk that the Migration Agency will consider your asylum application to be obviously unfounded, it is important that you present the threats against you in as much detail as possible, and explain why your country of origin is not safe in your case specifically.

The Migration Agency may not issue a refusal of entry order or deportation order without holding oral proceedings, at which the applicant has been given the opportunity to be heard. This also applies to Dublin cases and applications that are considered to be obviously unfounded.

Public counsel

Most asylum seekers are entitled to a public counsel. This is a lawyer to help you with your asylum application and represent you in dealings with the Migration Agency. If you need to appeal, the public counsel will continue to help you with that. In order for the counsel to be able to represent you in court, you need to sign a *power of attorney*. You do not need to pay anything for this; the counsel is paid by the Migration Agency or a Migration Court. The public counsels are not employed by the Migration Agency or linked to it in any other way. Their role is to represent you as an asylum seeker.

You will not be granted a public counsel if the Migration Agency considers it unnecessary, for example

- if the Migration Agency considers it to be self-evident that you will be granted a residence permit,
- if your asylum application should not be assessed in Sweden, or
- if the Migration Agency considers your application to be *obviously unfounded*.

Otherwise you should be granted a public counsel. If you are not, you can appeal that decision. You can also contract a legal representative yourself or contact voluntary organisations. Children seeking asylum without a guardian should always be granted a public counsel.

You may request to be represented by a particular counsel 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 previous experience of such cases. If you request a particular counsel, the Migration Agency should grant your request unless there are particular reasons against it, such as if the counsel lives too far away from you.

If you have grounds for asylum that you do not wish your spouse to know about, you can request your own public counsel.

For women and LGBTIQ people it may be advisable to be represented by someone who has worked with women's and LGBTIQ people' asylum applications before. If you do not know of any counsels, you can contact a refugee support group or other voluntary organisations near you who can give you advice.

🔗 *Contact details* for FARR's member organisations can be found at farr.se/medlemsgrupper

🔗 *Other organisations* farr.se/adresser

Asylum investigations

Asylum investigations proceed in different ways. This description is based on what was common in most parts of Sweden during 2022.

When your application for asylum has been registered, you will be summoned to an interview with a case worker at the Migration Agency. You are entitled to suggest a public counsel. If you do not, the Migration Agency will select a public counsel for you.

If you are granted a public counsel he/she/they should always be summoned to the interview regardless of whether or not you have met before. Sometimes an asylum seeker is summoned to a first interview without a public counsel being present. In such a case only formal aspects should be discussed. If you do touch on your asylum grounds you can say that you would like to wait until your public counsel is present.

Public counsels often meet their clients before the interview, but sometimes asylum seekers meet their public counsel for the first time in connection with the oral investigation at the Migration Agency. It might be a good idea for you to contact your public counsel before the interview if he/she/they do not contact you.

If possible, it is good to have plenty of time to go over your grounds for asylum with your public counsel before you meet at the Migration Agency, and to meet again after the interview.

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

Your identity should be substantiated as much as possible. It is important to try to obtain identity documents from your country of origin. 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 submitted for their authenticity. This can prolong the processing of your case.

At the meeting with the case worker at the Migration Agency, an interpreter will attend and your public counsel will assist you. You as the asylum seeker are generally responsible for pointing out all the important facts of your case during the interview. You must tell the Migration Agency about everything that has happened to you to mean that you still feel threatened and all the grounds you wish to put forward for seeking protection. This is why it is a good idea to meet with your public counsel to go over your grounds for asylum before the interview. You can record the interview on your own mobile phone if the Migration Agency does not record it.

If you are seeking asylum with your family, the grounds for each of you should be described. You should be interviewed one at a time. Children's individual needs for protection should be assessed. Note that your children may have their own grounds for protection. 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, in the key section on the best interests of the child.

It is also stated in the United Nations Convention on the Rights of the Child which has been incorporated into Swedish legislation. Children seeking asylum are therefore not just a part of their parents' application.

→ *For further information* about children's grounds see page 126.

→ *Specific advice* for minors seeking asylum without a guardian can be found on page 127.

All the documents and information that you wish to include in your application should be submitted at this interview. If you add anything later which you were aware of at the time of the interview, the Migration Agency may question you and believe that you are exaggerating. Therefore, it is important to put forward everything right from the beginning which may affect your right to asylum. This is one of the things you may need to discuss with your public counsel before the interview.

After this interview a written record from the meeting should be sent to your public counsel. You both have the opportunity to comment on it and supplement it with further information. You and your public counsel 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 anything is wrong, it may be very difficult to persuade the authorities to believe you if you give the correct version later. For the same reason it can put you at a disadvantage if the case worker is of the opinion that the investigation is over after the interview. If this happens, you and your public counsel should ask to see the transcript first.

You are entitled to copies of all documents concerning your asylum assessment. 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. Keep the documents in a safe place!

When your public counsel has submitted your comments and supplements, the Migration Agency can decide whether to grant you a residence permit. The waiting period varies. Sometimes it takes a few weeks, but it can also take several months. Before the Migration Agency makes its decision it will check whether 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 temporary residency permit of a shorter duration than you would usually have been granted. Even minor crimes can tip the balance against residency if the grounds for granting a permit are considered to be relatively weak.

Right to an interpreter

You are entitled to the assistance of an interpreter during the asylum investigation. The interpreter may be present in the room or participate via video-link or telephone. As a woman, you may request a female interpreter if you feel that you would prefer that. Interpreters must uphold professional confidentiality. In other words, they may not tell anyone what you have said. The interpreter should also be neutral, that is, not take sides. If you feel that you cannot trust the interpreter, because of 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 or if the interpreter seems to have difficulties translating what you are saying into Swedish. It is important that you and the interpreter can speak to each other without any trouble and that the interpreter translates everything you say, otherwise you are entitled to interrupt the interview.

Question: *May I change public counsel?*

Answer: It can be difficult to change your public counsel and it is more difficult the longer your first public counsel 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 change public counsel. It is easier if you and your original counsel agree that you should be allowed to change. If you live closer to the new public counsel you can state this as a reason.

If the Migration Agency will not let you change your counsel, this decision can be appealed to the Migration Court. If the court rejects your application as well you can change to another legal representative anyway, but then you will have to pay for the service yourself. You are also entitled to let someone other than your public counsel speak and act on your behalf. If so, you need to give that person power of attorney to represent you.

An authorised representative such as this can contact authorities and lawyers to obtain information and act on your behalf. Any person can be an authorised representative, including a relative, a friend or a member of a voluntary association, but of course it is to your advantage if that person understands the asylum procedure and rules. Your authorised representative should cooperate closely with your public counsel and not act without informing the public counsel beforehand.

If you have granted a new person power of attorney of your own accord, it is important to inform the Migration Agency. Otherwise, any new representatives will not receive the information they need in order to make an appeal, for example.

→ On page 134 you will find an example of a power of attorney for an authorised representative.

If your application is rejected

If your application for a residence permit in Sweden is rejected by the Migration Agency, you may appeal the decision to a Migration Court. You are entitled to continued support from your public counsel when appealing the decision as well.

If you do not appeal, then the procedure is over and the decision *takes legal effect* which means that it is final. If you have appealed and then change your mind, you can contact the Migration Agency and say that you wish to withdraw your application and make a *declaration of acceptance*. Then you will be asked to sign a paper saying that you accept the deportation order. A declaration of acceptance cannot be taken back so do not do this without serious consideration!

→ See the next section for information about appealing to a Migration Court.

If you are granted a residence permit

If you have been granted a residence permit based on asylum grounds it is valid for three years. If you have been granted a residence permit based on subsidiary grounds or distressing circumstances, it is valid for thirteen months to begin with. If you have been granted one of the latter permits and believe that you should have been granted asylum status, you can appeal this part of the decision – see page 48.

You are entitled to live in Sweden for as long as the permit is valid. Before it expires, you need to apply for an extension.

→ *For further information* about becoming established, extending residence permits, making residence permits permanent and citizenship see page 66.

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. You can also appeal a decision to grant a temporary residence permit based on subsidiary grounds and request refugee status instead.

The administrative courts in Malmö, Gothenburg, Luleå and Stockholm 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 where the court is situated.

Appealing a rejection of an asylum application

You have three weeks to appeal after you have *received notice* of the decision from the Migration Agency. You will usually be summoned to a meeting at the Migration Agency. If so, the three weeks start from the day of the meeting. Sometimes you will be sent a letter notifying you of the decision, which is known as a simplified notification. If so, you will be considered to have received notice of the decision two weeks after the letter is dated. From then, you have three weeks to appeal.

The appeal is directed to the Migration Court but should be sent to the Migration Agency. This is to give the Migration Agency an opportunity to reassess its decision based on the contents of your appeal. If the Migration Agency does not wish to reassess your case the appeal will be passed on to the court along with a *statement*. In this statement the Migration Agency will give its view of the contents of your appeal.

After that the Migration Court will decide whether it requires more information about your case. It will also decide whether you should be summoned to a meeting, a so-called *oral hearing*. Most cases are decided in writing, without an oral hearing. This means that the court makes its decision based on your appeal and the Migration Agency's statement. At an oral hearing in the Migration Court you and your public counsel (if you have one) will meet the Migration Agency's litigator as two parties. The litigators are lawyers who represent the Swedish Migration Agency. Once the hearing is over the judge will say when the ruling will be issued.

If you have had a public counsel, then this person will usually represent you in court and help you appeal. If you have granted your own representative power of attorney – do not forget to inform the Migration Agency and the court, so that your representative receives all the necessary information.

If you do not have any legal assistance you can appeal yourself. Write a letter to say you are appealing. You can write in your own language if you don't know enough Swedish or English. 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 country of origin. If there is evidence that the Migration Agency has not seen, you can include that. In cases where asylum seekers have not been granted a public counsel this is often because the Swedish authorities believe that you can obtain protection in your country of origin. Therefore, it can be important to demonstrate that you have tried to go to the police in your country of origin or to find reports that demonstrate that people in your group or situation are unable to obtain protection. In your appeal, you can request a public counsel.

You can also request that the Swedish authorities do not make you leave Sweden until the court has processed your appeal. 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. Note that the Migration Agency and the court need a postal address where you can be reached in order for you to receive an answer!

→ *For further information* about how you can influence your case see page 109.

Appealing your protection status

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

Note that it is not possible to appeal the duration of a temporary residence permit. If you only appeal that you have received a 13-month permit, then you risk the court rejecting your appeal without assessing either the issue of your status or the duration of your permit. Instead, it is your subsidiary status that you need to 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 reunification if you fulfil the other requirements.

You are entitled to request a public counsel to help you appeal your status. You will keep your residence permit even if you appeal your status.

Requesting an oral hearing

An oral hearing in the Migration Court gives you 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 received the most important aspects of the case through the 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 public counsel will be able to explain things that have become unclear and point out the faults you see in the Migration Agency's decision. If you wish to be able to talk to the court about your case, you should ask your public counsel to request an oral hearing.

You need to prepare carefully, because an oral hearing is also a way for the court to check whether you are sticking to the same story and whether you appear to be telling the truth. You will be questioned about things that the court finds odd or lacking in credibility.

An oral hearing in a Migration Court should be held if you wish it, unless there are particular reasons against it or it is considered *unnecessary*. If your application is at risk of being rejected because the Migration Agency has questioned your credibility, you are entitled to an oral hearing. On the other hand, your request for an oral hearing may be rejected if the court does not believe that the matter of your credibility is relevant. This means that if your 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. Young children are not summoned to an oral hearing either.

If you do not request an oral hearing, the court may decide to hold 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 decision on the documents that your counsel and the Migration Agency have submitted. The court should notify you and your counsel if there will not be an oral hearing, so that you can submit more material if necessary.

Confidentiality

The documents that the Migration Agency has concerning you should be treated with confidentiality. This means that no unauthorised person is allowed to see them. People who have nothing to do with the case may not be present when the Migration Agency discusses your case.

Court proceedings, on the other hand, are often open to the public and rulings are released to anyone who wishes to read them. Documents concerning asylum seekers can also be made public unless the court decides against it. You or your representative can request that the proceedings take place *behind closed doors* (that is, excluding people you do not know) and that the documents be treated with confidentiality.

Appealing fast-track decisions

If you have received a decision to be transferred under the Dublin Regulation or a decision on refusal of entry to be enforced immediately you are still entitled to appeal. When you appeal you can request a public counsel if you do not already have one. It is not common for a public counsel to be granted but this can happen.

You are not automatically entitled to stay in Sweden to await the court's decision in your case. But you can request a *stay*, which means that the transfer or refusal of entry is postponed to await the coming decision. You cannot be removed from Sweden until the court has responded to this request. In the case of a transfer under the Dublin Regulation that is stayed, the statute of limitations for the decision is moved forward and is counted anew from when the stay order is terminated if your application is rejected again. The Migration Agency can choose to grant a stay even if you have not requested one yourself.

If you appeal a Dublin decision, note that your grounds for asylum in relation to your country of origin will not be assessed, but merely the question of which European country should process your application!

If your appeal is rejected

A decision from the Migration Court can be appealed to the Migration Court of Appeal. After the day you receive notice of the ruling you have three weeks to appeal. You can be notified in two different ways. Either you or your representative receives a letter stating the decision, with a receipt to be sent in. In such a case, the three weeks start from when the receipt was sent. *Simplified notification* is now more common. This means that no receipt is necessary. Instead, the three weeks to appeal start from two weeks after the letter is dated. After that, you are considered to have been notified, even if it is only your representative who has received the letter.

Sometimes the court reverses the Migration Agency's decision but does not grant a residence permit but instead *remits* the case to the Migration Agency. This is common if something new has arisen that the court considers that the Migration Agency needs to investigate. In such a case, the Migration Agency will assess your case again. If you have a public counsel, you should discuss what your case being remitted means for you. You may be summoned to a new interview.

If your appeal is accepted

If the court approves your appeal, it usually means that you are granted a residence permit. You are entitled to live in Sweden as long as the permit is valid. The permit is valid for three years if you have been granted refugee status and 13 months in most other cases. It can be extended if you still cannot return to your country of origin when it expires.

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

→ *For more information* about becoming established, extending residence permits, making residence permits permanent and citizenship see page 66.

The third instance:

The Migration Court of Appeal

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

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 being granted *leave to appeal*. You cannot usually be removed from Sweden while the Migration Court of Appeal considers this. But stay in touch with your public counsel – sometimes the Migration Court of Appeal’s decision is only sent to him/her/them.

The Migration Court of Appeal grants hearings in very few cases. Appeals only lead to proceedings when the Migration Court has made a formal error, or if the Migration Court of Appeal considers guidance is needed on 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 leave 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 make, and why. Your public counsel can help you with this. As you need leave to appeal, you should also state why you believe it should be granted. It is not enough to explain why the Migration Court has made an incorrect assessment of your grounds. What is important is whether the Migration Agency and the court have made an error of principle in the way your case was treated. The appeal needs to reach the Migration Court of Appeal within three weeks after you were notified of the negative decision. 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 verbally. You may be given an oral hearing if it could be beneficial to the case, but this usually only occurs in so-called security cases.

→ *For further information* about security cases see the following page.

If the court does not alter the deportation order

A decision by the Migration Court of Appeal cannot be appealed. This applies no matter 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 grounds that you have put forward were not enough to grant you a residence permit in Sweden. You must now consider what to do. Are you able to switch tracks? Will you apply for reestablishment support and try to return to your country of origin? Will you return to your country of origin on your own or wait for the Migration Agency to organise the trip? Will your country of origin let you return? Are you going to choose not to cooperate so that the Migration Agency cannot deport you – and risk your case being handed over to the police to enforce the deportation? Are you going to try to travel to some other country? Are you going to try to stay in Sweden without a permit, making you an “undocumented” migrant?

FARR cannot provide answers to these difficult questions – only advise you to contemplate the alternatives carefully, and to discuss them with your family. You must consider the consequences of the various alternatives for each one of you, including the children.

If any new circumstances should arise that have not yet been assessed, you can turn to the Migration Agency and claim that there are so-called impediments to enforcement. Impediments to enforcement are circumstances that make a refusal of entry or deportation order impossible to enforce.

- *For information on* returning and enforcement, see page 83.
- *For information on* impediments to enforcement, see page 92.
- *For information on* switching tracks, see page 99.
- *For information on* living as an undocumented migrant, see page 72.

Statute of limitations

Four years after a refusal of entry or deportation order has taken legal effect (that is, the date when the decision becomes valid and can no longer be appealed), its *statute of limitations* expires. This means that the refusal of entry or deportation order is no longer valid; it cannot be enforced. This does not mean that you are automatically granted a residence permit in Sweden – the decision to deny you residence has not been reversed. Sweden’s responsibilities under the Dublin Regulation also remain. However, you are entitled to apply for asylum again if you are in Sweden, and during the new assessment your residence in Sweden will be legal.

Security cases

Occasionally the Swedish security police suspect an asylum seeker of threatening *national security*. This can involve suspicions such as terrorism or espionage. If the Security Services consider that you should be issued a refusal of entry or deportation order because of this type of suspicion, both the Migration Agency and the Security Services will be your counterparts. The final say rests with the Government instead of the Migration Court of Appeal. If the Security Services request your refusal of entry under the Act concerning Special Controls in Respect of Aliens, your case will be dealt with under 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 hearing. 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 make a statement (give its 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 obstacles to making you leave, such as whether there is a risk of you being subject to the death penalty, torture or other cruel, inhuman or degrading treatment, or physical punishment. If the Migration Court of Appeal considers there to be such a risk, the Government must comply with this. In such a case, you may not be refused entry or deported. Instead, you will be monitored. If the authorities later consider that the deportation can be enforced, you will be issued a longer re-entry ban.

- *For information* about re-entry bans see page 87.



Kabul, Afghanistan, August 2012.

I See You, mural by ArtLords, www.artlords.com.

The mural was painted in the heart of the Kabul city centre, near the office wall of the Afghani intelligence agency. Cofounders of ArtLord Kabir Mokamel and Omaid Sharifi pose with their team in front of the work.





Work by Susan Wilkinson, unsplash.com/@susan_wilkinson

3

YOUR SITUATION IN SWEDEN

Your rights as an asylum seeker

The Act concerning Reception of People Seeking Asylum and Others (1994:137) regulates your rights to an allowance, housing, health care and other matters as an asylum seeker in Sweden. Children seeking asylum are also covered by the UN Convention on the Rights of the Child, which means that the best interest of the child should affect all decisions.

This section is about your rights while you are still an asylum seeker, that is, you have not yet received a residence permit or a final rejection that can no longer be appealed. If you have received a final rejection, see the section on the rights of undocumented migrants, page 72. If you have been granted a residence permit, see the section on this, page 66.

Health care

Adult asylum seekers are only entitled to:

- emergency health care,
- emergency dental care,
- maternal care,
- obstetric care,
- contraceptive advice,
- abortion care,
- treatment under infectious disease legislation, and
- treatment that cannot wait.

Treatment that cannot wait means that the condition could become life-threatening 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 health care worker).

Upon arrival in Sweden as an asylum seeker you are also entitled to a medical examination or a conversation about your health situation – take advantage of this if you can!

Asylum seekers demonstrate their right to health 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 contribution of 50 Swedish kronor. You will also pay 50 Swedish kronor for the medication prescribed by the doctor at each visit (these prices were applicable in 2022). The rest will be paid by the Migration Agency. If you require frequent care it is possible to apply for additional support. You may receive treatment above and beyond immediate and urgent care, but then you may have to pay the full cost yourself.

The health care and social welfare sectors have laws of professional confidentiality which apply to everyone, regardless of whether you have a residence permit or not. Under the law, no information about you may be given to third parties unless that is what you want. One exception is if your representative submits a health certificate on your behalf, in which case the Migration Agency is entitled to request additional information from the health services in order to assess the certificate.

Children and health care

In principle, minors seeking asylum are entitled to all the health and dental care they need, on the same terms as any other child living in Sweden. This means that health care is free in many parts of the country, while you may be required to pay a certain patient contribution in other parts. Dental care is always free for children.

Children may sometimes be denied more long-term treatment if they may not be able to complete the treatment, and if that could be harmful 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 their LMA card.

Education

Minors seeking asylum are entitled to childcare, preschool and school just like other children in Sweden. However, unlike most other children in Sweden, children seeking asylum are not required to attend school. The municipality is required to provide a place at a school within a month of the child's application for asylum. Initially, schools often let children attend a preparatory class, where they can be given extra Swedish lessons.

Asylum seekers of the appropriate age can attend upper secondary school. If you are not yet 18 you are entitled to apply for upper secondary school, and if you have been accepted to an introduction programme or a national programme, you are entitled to complete that programme. In some places studies or other activities are organised for adults, mostly by voluntary organisations.

If you are unaccompanied and turn 18 or have your age registered as 18 or above, you may be moved to accommodation for adults and end up far from your school. If you would rather find your own accommodation, then you can do so but unfortunately you will not be given any money for the rent. In some places the municipality or voluntary organisations can help you to find housing. Find out what applies in your municipality! If you are going to move, ask your teacher for a certificate of what you have learned and take it with you to the senior secondary school in your new town. You are entitled to complete the programme you were enrolled in or an equivalent 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”, which is an abbreviation of *exemption from a work permit* in Swedish. Even if you do not have identity documents, you may work if the Migration Agency case worker is of the view that you are trying to participate in verifying your identity. If you are issued a decision on refusal of entry to be enforced immediately or are to be transferred to another Dublin country you may not work even if you have identity documents.


If you are permitted to work, 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 simply keep your ordinary daily allowance. However, you are entitled to join a union if you wish.

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 financially in some other way. The daily allowance is low and is intended to cover the most important everyday items.

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 investigation. This could mean that you have gone into hiding to avoid deportation or that you are not cooperating in procuring documents that would establish your identity. Even if you are in fact unable to substantiate your identity, the Migration Agency can claim that you are not being cooperative.

Decisions regarding decreased or withdrawn daily 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.

 *There is more information* about daily allowances at the Migration Agency’s website, see www.migrationsverket.se/Privatpersoner/Skydd-och-asyl-i-Sverige/Medan-du-vantar/Ekonomiskt-stod.html

Housing

You are entitled to stay free of charge at a reception unit, or accommodation centre (ABO). Although it is called a centre, you may be offered a flat in an ordinary residential area, or to share a flat with other asylum seekers. You can also arrange your own housing (EBO).

If you live at an ABO the Migration Agency will cover your rent, but if you live in your own housing you will be given no such financial assistance, except on a temporary basis if you move somewhere else where you have found a job.

Nevertheless, many asylum seekers choose to arrange their own housing. If you choose to arrange your own housing and then for some reason wish to stop doing so you can contact the Migration Agency and request a room at one of its accommodation centres.

You may also move from a Migration Agency accommodation centre to your own accommodation at any time while you are seeking asylum, but you will have to find that housing 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 accommodation and employment there in the future – or whether it might even be easier for you to find a job there.

Many towns have a number of areas into which the authorities wish to prevent more asylum seekers from moving, as these areas are considered to have become overly segregated, with many people living under cramped conditions. If you choose to move to one of these areas of social and economic challenges, as they are known, you will not receive any daily allowance at all.

At the time of writing in 2022, the Government has proposed that no one who chooses to arrange their own housing should be given a daily allowance. The opportunity to work may also be revoked for those who choose to arrange their own housing. Find out what applies before you decide what to do!

🔗 *Check at the Migration Agency's website* whether the address to which you wish to move is approved by the Migration Agency. See <https://migrationsverket.se/Privatpersoner/Skydd-och-asyli-i-Sverige/Medan-du-vantar/Boende/Eget-boende.html>

If you as an asylum seeker are under the age of 18 and unaccompanied, without a parent or other guardian, you should not be offered the same type of accommodation as adult asylum seekers. After a short period of time in one of the cities where asylum seekers are registered, you should be assigned housing at a youth residential facility for asylum seekers, or in a family. Many municipalities place unaccompanied younger children in foster care or staffed youth residential facilities, but arrange simpler accommodation with support for older minors where they are left to care more for themselves.

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 or have your age registered as 18 or above you will be moved to accommodation for adults unless you can arrange your own accommodation. Then the municipality is no longer responsible for you and you are no longer entitled to an appointed (independent) guardian (god man). The accommodation for adults may be in a different part of the country, but if you are enrolled in an upper secondary school programme you are entitled to continue your studies in your new town.

→ *For further information* about appointed (independent) guardians (god man) and age see page 127.



Lindesberg, Sweden, November 2015.
Usama Khlaif, a chef from Syria, is lying in his bed.
His image of Sweden changed completely when he came here. Usama says that he feels imprisoned at the accommodation centre and struggles to see why it should take so long to receive a decision on his asylum application.
© UNHCR/Johan Bävman.

After a deportation order

If you are an adult and not living with children of whom you have custody, your right to accommodation and a daily allowance end soon after you have received a final deportation order. The decisive factor is that the deportation order has taken legal effect, that is, it can no longer be appealed.

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

Exceptions can be made for those who are temporarily seriously ill just at the time when the decision is made, and also for those who cooperate in carrying out the deportation but where the deportation for whatever reason still has not been possible to carry out.

If you believe that your allowance has been withdrawn incorrectly, you should start by contacting the Migration Agency's reception officer, and ask for a written decision if you have not received one. The decision can be appealed to a court.

Migration Agency staff are not entitled to use force to make you leave the accommodation. Ultimately, however, the police can be called in.

The social services in your municipality are responsible for all those who live there. You can request emergency support. However, the municipalities are not legally required to provide financial support to a person with an deportation order. The interpretation that many municipalities make is that the only support they can provide is assistance to travel to your country of origin.

→ *For information* on returning and enforcement, see page 83.

→ *For information* on living as an undocumented migrant, see page 72.

Your rights under the Temporary Protection Directive

Your rights if you have been granted temporary protection under the EU's Temporary Protection Directive are detailed in the Act concerning Reception of People Seeking Asylum and Others (1994:137).

This section is only about people who have fled from Ukraine and travelled into Sweden no earlier than 30 October 2021. Your rights to an allowance, health care, accommodation and other matters are, by and large, the same as for people from other countries who are still asylum seekers, that is, they are waiting for a decision.

Health care

Adults having temporary protection are only entitled to:

- emergency health care,
- emergency dental care,
- maternal care,
- obstetric care,
- contraceptive advice,
- abortion care,
- treatment under infectious disease legislation, and
- treatment that cannot wait.

Treatment that cannot wait means that the condition could become life-threatening 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 health care worker).

Upon arrival in Sweden as an asylum seeker you are also entitled to a medical examination or a conversation about your health situation – take advantage of this if you can!

You can demonstrate your right to health care by displaying your residence permit. At every visit to the doctor's you will pay a patient contribution of 50 Swedish kronor. You will also pay 50 Swedish kronor for the medication prescribed by the doctor at each visit (these prices were applicable in 2022). The rest will be paid by the Migration Agency. If you require frequent care it is possible to apply for additional support. You may receive treatment above and beyond immediate and urgent care, but then you may have to pay the full cost yourself.

Children and health care

In principle, minors having temporary protection are entitled to all the health and dental care they need, on the same terms as any other child living in Sweden. This means that health care is free in many parts of the country, while you may be required to pay a certain patient contribution in other parts. Dental care is always free for children.

Children may sometimes be denied more long-term treatment if they may not be able to complete the treatment, and if that could be harmful 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 their residence permit.

Education

Children who have been granted temporary protection under the EU's Temporary Protection Directive are entitled to childcare, preschool and school just like other children in Sweden. However, unlike most other children in Sweden, they are not required to attend school. The municipality is required to provide a place at a school within a month. Initially, schools often let children attend a preparatory class, where they can be given extra Swedish lessons.

Children of the appropriate age can attend upper secondary school. If you are not yet 18 you are entitled to apply for upper secondary school, and if you have been accepted to an introduction programme or a national programme, you are entitled to complete that programme. In some places studies or other activities are organised for adults, mostly by voluntary organisations. Adults who have been granted other types of residence permits after seeking asylum are entitled to attend Swedish courses, organised by the municipality. These courses are called *Swedish for immigrants* and abbreviated to SFI. Sometimes people having temporary protection may also join SFI courses. Ask the municipality where you live!

Work

If you have been granted a residence permit based on temporary protection grounds, you are also entitled to work. This should be stated on your residence permit. You are entitled to turn to the Swedish Public Employment Service to ask for help finding suitable work.

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 people having temporary protection under the Temporary Protection Directive are different from those for people with other types of residence permits. For instance, you are not entitled to sickness benefit if you become ill, you simply keep your ordinary daily allowance. However, you are entitled to join a union if you wish.

Daily allowance

If you have been granted temporary protection you are entitled to a daily allowance if you have not brought money or are able to support yourself financially in some other way. The daily allowance is low and is intended to cover the most important everyday items.

Under the Act concerning Reception of People Seeking Asylum and Others, your daily allowance should be withdrawn if you leave Sweden while you have temporary protection. If you return, you will still be entitled to protection, but you will not be permitted a daily allowance again. At the time of writing, this rule is under discussion and may be changed. Find out what applies before you leave Sweden!

🔗 *There is more information* about daily allowances at the Migration Agency's website, see www.migrationsverket.se/Privatpersoner/Skydd-enligt-massflyktsdirektivet/Efter-beslut-om-uppehallstillstand-enligt-massflyktsdirektivet.html

Housing

You are entitled to stay free of charge at a reception unit, or accommodation centre (ABO). Although it is called a centre, you may be offered a flat in an ordinary residential area, or to share a flat with others. You can also arrange your own housing (EBO).

If you live at an ABO the Migration Agency will cover your rent, but if you live in your own housing you will be given no such financial assistance, except on a temporary basis if you move somewhere else where you have found a job.

Nevertheless, many choose to arrange their own housing.

If you choose to arrange your own housing and then for some reason wish to stop doing so you can contact the Migration Agency and request a room at one of its accommodation centres.

You may also move from a Migration Agency accommodation centre to your own accommodation at any time while you have temporary protection, but you will have to find that housing yourself.

If you leave Sweden while you have temporary protection, you may lose your right to accommodation through the Migration Agency. See above under Daily allowance.

Many towns have a number of areas into which the authorities wish to prevent more asylum seekers from moving, as these areas are considered to have become overly segregated, with many people living under cramped conditions. If you choose to move to one of these areas of social and economic challenges, as they are known, you will not receive any daily allowance at all.

🔗 **Check** at the Migration Agency's website whether the address to which you wish to move is approved by the Migration Agency. See migrationsverket.se/Privatpersoner/Skydd-enligt-massflyktsdirektivet/Efter-beslut-om-uppehallstillstand-enligt-massflyktsdirektivet.html

🔗 **Find** voluntary organisations who support refugees and others at farr.se/addresses

Children without a guardian

If you are under the age of 18 and have come to Sweden unaccompanied, without a parent or other guardian, different rules apply than for adults. If you are living with a relative or friend who wishes to take responsibility for you, you may be able to stay there. But the social services in the municipality where you live will check that you seem to be doing well. This is to prevent children from being abused or mistreated. If you cannot stay with relatives, you should be assigned a place in a municipality that will arrange housing for you. This could be at a youth residential facility, or in a family. Many municipalities place unaccompanied younger children in foster care or staffed youth residential facilities, but arrange simpler accommodation with support for older minors where they are left to care more for themselves.

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 an appointed (independent) guardian (god man). You will be offered accommodation for adults. In a worst case scenario, this may be far from your school. If you would rather find your own accommodation, then you can do so but unfortunately you will not be given any money for the rent. In some places the municipality or voluntary organisations can help you find housing. Find out what applies in your municipality! If you are going to move, ask your teacher for a certificate of what you have learned and take it with you to the senior secondary school in your new town. You are entitled to complete the programme you were enrolled in or an equivalent one.

→ *For further information* about an appointed (independent) guardians (god man) see page 127.

Applying for protection status

If you have been granted a residence permit for temporary protection but believe that you have grounds for asylum, you can apply for protection status, as a refugee or a subsidiary protection rights claimant. In such a case, it is important to demonstrate that you specifically are at great risk of persecution in your country of origin. It is important to include all relevant information in your appeal about your grounds for being under threat based on who you are, who has threatened you, which group you are a member of, etcetera.

You can apply for protection status at any point during your time having temporary protection in Sweden. Your grounds will be investigated by the Migration Agency in more or less the same way as for other groups seeking asylum. If your application is rejected, you can appeal.

You are not automatically entitled to a public counsel (a lawyer to help you), but you can apply for one, and you are entitled to contract your own legal representative if it is within your means.

The result of your application for protection status can be that you are granted asylum status or subsidiary status. This status means, among other things, that you can be registered in the Swedish population register (folkbokförd), with more social rights and the possibility of permanent residency. If the Migration Agency and the courts both reject your application for protection status, you are entitled to keep your residence permit for temporary protection for as long as the Temporary Protection Directive is applicable.

- *For further information* about asylum status and subsidiary status see page 11.
- *For further information* about how you can influence your case see the chapter that begins on page 109.

Protection in another EU country

Sweden can propose that you should be transferred to a different EU country if the EU countries agree that redistribution is necessary. But you should not be transferred without your agreement. You can also travel of your own accord to another EU country and apply for temporary protection there. Under the Temporary Protection Directive, you could be sent back to the country that has already granted you protection, but the EU countries have decided not to apply that rule. However, these things can change, so check what applies before you decide to travel onwards!

When your temporary protection expires

At the time of writing in early 2022 we do not know for how long the permits under the Temporary Protection Directive will be valid. Residence permits under the Temporary Protection Directive will be valid for as long as the EU decides and cannot be extended beyond that. After this period, Sweden may arrange some type of programme for those affected, granting them longer residence permits to prepare to return. Sweden may also permit extensions to finish a school term or year.

When your permit expires you are required to leave Sweden unless you have another reason granting you permission to stay.

If you apply for asylum and have not had your grounds for asylum assessed before, you are entitled to remain in Sweden while your application is being assessed. If you apply for a residence permit on other grounds, such as family reunification, work or studies, your application should usually be submitted from your country of origin. There may be particular reasons to apply from Sweden, such as having particularly strong ties to Sweden or a child who would be harmed by being separated from you. At the time of writing, we do not know how these types of exceptions will be regarded for people who have had temporary protection.

If you were to stay in Sweden as an undocumented migrant (without a permit), it would be illegal and you would not have many rights.

- *For further information* about applying for asylum see the chapter that begins on page 31, and about how you can influence your case see page 109.
- *For further information* about other residence permits see the sections on close relatives on page 19 or work and studies on page 25.
- *For further information* about living as an undocumented migrant see the section that begins on page 72.



Rzeszow, Poland, March 2022.
Anhelina, 18, holds out some pictures she
took during her flight from Ukraine.
© UNHCR/Maciej Moskwa

Residence permits and extensions

Initially, residence permits granted in Sweden are temporary. The only people who can be granted permanent residency right from the beginning are quota refugees, who have been selected by the UN or evacuated to Sweden. Anyone else needs to apply for an extension at some point to be able to stay in Sweden. However, as soon as you have been granted your first residence permit which involves being registered in the Swedish population register (folkbokförd), you have similar rights and obligations as other Swedish residents.

This section does not apply to people who have been granted temporary protection under the Temporary Protection Directive. If you are from Ukraine and have been granted temporary protection, see the previous section on your rights instead!

In order to be granted a temporary residence permit in Sweden, a valid passport is generally required. Those who are granted residence permits based on protection grounds or distressing circumstances are exempted from the passport requirement. However, if you are expected to be granted a residence permit for some other reason, such as a long-term impediment to enforcement or the temporary Limitation Act, the Migration Agency can ask you for a passport before they grant you residency. If you do not have one and cannot obtain one, you need to be able to explain why this is not possible. You may need to do this even if the Migration Agency is already aware of the situation.

For a residence permit to work or study, a valid passport from your country of origin is an unavoidable requirement.

Becoming established

Getting started with housing, childcare, studies or work is known as *becoming established*. The Swedish Public Employment Agency arranges introduction programmes for newly arrived migrants.

Your residence permit is issued in the shape of a card. Once you have received your card, there are some things you should do as soon as possible.

- Go to the *Swedish Tax Agency* to be registered in the Swedish population register (folkbokförd). The Tax Agency has many local service offices. You can also apply for a national ID card there.
- Begin your application for family reunification if you are entitled to this. Apply within three months of the decision to grant you a residence permit, even if you have not had time to receive a personal identity number or all the required documents. Otherwise, being granted family reunification may be much more difficult!
- Sign up at the *Swedish Social Insurance Agency* to be registered in the social insurance system. You will need this to be able to receive an allowance if you need to study Swedish or receive other support before you can start to work, for example.
- Contact the *Swedish Public Employment Service* to be enrolled on an introduction programme and to find work. The introduction programmes always include Swedish classes. If you already have a job you can, of course, continue to work there.

If the adults in the family are working or studying, small children are entitled to a place at pre-school (kindergarten). *The municipality* can provide information on how admission works.

If you are still studying, you will need to apply for a *study allowance* from CSN, the Swedish Board of Student Finance, instead of going to the Swedish Public Employment Service. If you are too old to work, you may be entitled to *financial support for the elderly*, which is handled by the *Swedish Pensions Agency*. (If you have been granted asylum status or subsidiary status, you are entitled to better pension benefits, in a similar way to Swedish citizens).

The Migration Agency's website lists these authorities and others you may need to contact.

If you have lived at a Migration Agency accommodation centre as an asylum seeker, you can stay there until you are assigned a housing contract in a municipality with which the Migration Agency has an agreement. These types of contracts usually run for two years, so after that you will probably need to find somewhere else to live yourself. If, while you were an asylum seeker, you have lived in accommodation that you have arranged yourself, you are entitled to continue to stay there and to receive support to become established in that municipality, as if you had been assigned a place there. However, the municipality is not required to offer you any other accommodation than the housing you have arranged yourself.

Exceptions when becoming established

If less than 12 months of your residence permit remain when you have received your residence permit card and are to report to the Swedish Tax Agency, you are not entitled to be registered in the Swedish population register (folkbokförd). This can happen if, for example, you have been granted a residence permit because of practical impediments to enforcement that are considered to be *temporary*. (Then the authorities assume that you will not be staying for very long.) Another reason can be if you were granted a residence permit as a close relative when your sponsor's permit was close to expiring. The Tax Agency may make an individual assessment, so if it seems likely that you will be staying for more than a year, you may be registered in the Swedish population register (folkbokförd) anyway.

If you are denied registration in the Swedish population register, you will be excluded from many of the social rights which only apply to those on the register. These include child allowance and financial support for the elderly. You can also be required to pay the full cost of health care.

You will also be excluded from the Swedish Public Employment Service's introduction programme, although you can request other support from the Public Employment Service. You are still entitled to work and to work-related benefits, such as sickness benefit and annuity and compensation for occupational injury. Because you are in Sweden with a permit, there is also the possibility of receiving a social welfare allowance from the social services where you live if you cannot support yourself financially in any other way.

🔗 **Contact details** for these authorities can be found at migrationsverket.se/Privatpersoner/Skydd-och-asyl-i-Sverige/Efter-beslut/Om-du-far-stanna/Uppehallstillstand-som-alternativt-skyddsbehovande.html

→ *For further information* about family reunification see page 19.

Travel documents and aliens' passports

If you have been allowed to stay and granted refugee status, you are entitled to a particular passport called a *travel document*. A travel document is not valid for visiting your country of origin. If you have submitted a passport from your country of origin you will not get it back. If you ask for your passport back, or obtain a new passport from your country of origin, your status as a refugee may come into question, as your status as a refugee is based on you being in mortal danger in your country of origin.

If you have been granted a residence permit on subsidiary or other grounds, you can apply to the Migration Agency for an *aliens' passport*. You will need to pay a fee. If you have been granted protection because of threats from the authorities in the country where you are a citizen, you will probably be granted an aliens' passport. It may be possible to obtain an aliens' passport in other cases as well, but then you must be able to prove that it is completely impossible to obtain a passport from your country of origin that Sweden will accept.

If your identity has not been established, this may be noted in your travel document or aliens' passport.

Extensions

Most residence permits can be extended by two years at a time. It is important to apply for an extension before your old permit expires, as otherwise you may lose your right to residency. At the time of writing in 2022 you can apply at the earliest two months before your permit expires. If you apply just after your residence permit has expired, it is still possible to be granted an extension, but you will not continue to receive social benefits such as child allowance and other support while you are waiting for a decision.

Sometimes residence permits are granted to people who have also received deportation orders that have not been reversed. If you have one of these permits, it is particularly important for you to apply for an extension before your permit expires, as otherwise you will be living in Sweden illegally while you wait for your decision. Your deportation order will become *enforceable* and in a worst-case scenario you could be arrested for deportation.

If you have refugee or subsidiary status, you do not simply lose this status because your residence permit expires. If you retain this status, you are entitled to an extension. In order for you to lose this status, a specific decision to revoke it has to be made. For example, this can happen if you were granted subsidiary status for a particular reason that is no longer valid. This is unusual, but one example is if you were granted protection status when you were under 18 specifically because you were a minor. Then you can lose both your protection status and your residence permit when you turn 18, unless you can demonstrate that you are still entitled to stay for some other reason.

Refugee or subsidiary status can also be revoked because conditions in your country of origin have changed drastically. However, this is also unusual, because the changes must be *significant* and *long-term*. Your protection status can also be revoked if the Migration Agency considers that you have committed such a serious crime or constitute such a threat to Sweden's security that you should not have protection status. However, for the vast majority of people having protection status, their residence permits are extended without any problems.

Most people who apply for an extension have the same grounds for a residence permit as the first time and need only fill in a form. However, if you were granted a residence permit as a close relative, for example, the situation may have changed. Children may have turned 18, couples may have got divorced. In such a case, you need to find out whether there are still grounds for you to be granted continued residency because of another rule for close relatives, a need for protection or distressing circumstances. If you have been granted a residence permit because of a practical impediment to enforcement, the impediment needs to be proven again for your permit to be extended. It can be a good idea to speak in plenty of time to a lawyer or a voluntary organisation who can provide advice.

If you have had to leave a relationship because you were abused physically or psychologically, particular rules apply. The standard of proof is high, such as a medical certificate, but if you can prove that you had to leave your spouse/cohabiting partner for this reason you should not be deported but have your residence permit extended by 13 months. However, once those 13 months have passed, you will need to demonstrate other ties to Sweden, or particularly distressing circumstances.

If you have received a deportation order, and at the same time, a temporary residence permit because the deportation order cannot be enforced, particular rules apply. Then the deportation order remains when the temporary residence permit expires. You cannot apply for asylum again as you have already received a final rejection. In this situation, your residence permit can only be extended if you can demonstrate that the practical impediment to enforcement remains or if new circumstances have arisen that are an impediment to enforcement.

It can be difficult to be granted continued residency if the permit you had cannot be extended. Guesses and bad advisors can make your situation even worse. Before you apply for anything, the safest option may be to try to seek advice from a lawyer who is experienced in asylum law.

If you have applied for an extension and been rejected you are entitled to appeal to a court. If you risk being deported you can also apply for a public counsel.

→ *For further information* about impediments to enforcement see page 92.

Permanent residency

When you have had a temporary residence permit for three years, and you are applying for an extension, you can also apply for permanent residency.

In order for this to be granted, certain conditions must be met.

- You must still have grounds for a permit, just like an ordinary extension,
- you must be able to support yourself financially with work of a *certain duration* and
- you must live an orderly life.

The Migration Agency understands the maintenance requirement to mean that, when the decision about a residence permit is made, you should have employment for the next 18 months. The income remaining every month after you have paid taxes and rent (including heating) must amount to a certain sum. At the time of writing in 2022 this sum is 5 157 Swedish kronor, but it changes every year. Check the current figure at the Migration Agency's website! Your income can be from employment or from a business that you own or co-own, but your income may not be subsidised by the state in any way.

The requirement for an orderly life means that you can be denied permanent residence if you have committed a crime. The crime does not need to be serious. If you have been disorderly in other way, suspected crimes can also be considered. It matters whether it has been a long time since you committed a crime or were suspected of one.

Children under the age of 18, and people who are entitled to a pension, are exempted from the maintenance requirement. This means that they can be granted permanent residency after three years with a residence permit without having a job. Having a disability or being unemployed and close to retirement age can also lead to an exemption. The only exemptions from the requirement for an orderly life are for children under the age of 15.

Every person in a family needs to apply for permanent residency as an individual. This means that one or more members of the family have permanent residency (such as the children, who do not need to be able to support themselves financially), while the others still have temporary permits.

If your application for permanent residency is rejected, your temporary permit can still be extended. You are entitled to appeal the decision not to grant you permanent residency, even if you were granted a temporary residence permit instead.

If you are granted permanent residency you can stay in Sweden for as long as you wish. However, your permit can be revoked if it is later found to have been granted based on inaccurate information or if you later commit a serious crime and are sentenced to deportation. If you leave Sweden for more than a year, you risk having your permit revoked for not living in Sweden anymore. However, if you have notified the Migration Agency in advance that you are going away and would like to keep your residence permit, it may not be revoked until after at least two years.

Long-term resident

An alternative to applying for permanent residency under the Aliens Act is to apply to become a long-term resident under EU rules. To be granted this status, you should have lived in Sweden for at least five years without interruption and be able to provide long-term financial support for yourself and your family. You must have had a residence permit for the last five years, but if you have refugee or subsidiary status you can count the time since you filed the application for asylum or for a new assessment that led to your residence permit. If you are granted status as a long-term resident you will also be granted permanent residency.

🔗 *For further information* about the requirements for being considered a long-term resident see the Migration Agency's website migrationsverket.se/Privatpersoner/EU-EES-medborgare-och-varaktigt-bosatta/Varaktigt-bosatt/Varaktigt-bosatt-i-Sverige.html

The upper secondary school law

If you have had a residence permit for upper secondary school studies under the specific rules that have applied to a group of young people who applied for asylum no later than 24 November 2015, your permit can be extended to allow you to complete your studies. You must demonstrate that you have been studying actively every year. After you have completed your studies, you can be granted permanent residency if you have a job. These rules are part of a specific law, the *Swedish Upper Secondary School Act*. This law is temporary. Permits for continued studies cannot be granted after 20 December 2023. The last day to apply for permanent residency will be 19 January 2025. No new permits are granted for upper secondary school studies. The law only applies to those who already have these permits.

Your residence permit cannot be extended for an introduction programme more than once. After that, you will need to be accepted to a national upper secondary school programme or a vocational training programme that is intended to lead to employability. The studies can be at an upper secondary school programme, municipal adult education (Komvux) or a folk high school. When you apply, you need to submit your study plan for the entire programme, right until you complete it. If you have been accepted to this type of programme, your residence permit can be extended until you complete the programme plus six months. You may also be granted an extra extension if you do not complete your studies within the expected time, but then you need to have a good explanation and be able to demonstrate a new study plan.

If you have completed your studies and can demonstrate this, but do not have enough time remaining to apply for work, your permit can be extended for up to six months after you completed your studies. If you have started a national upper secondary school programme it might be possible to change to vocational training, but you are not allowed to change a vocational programme.

If you have had a residence permit under the temporary upper secondary school rules, you can be granted permanent residency when your permit for studying expires. The requirement for permanent residency is that you can support yourself financially by means of employment or your own business.


The employer should have notified the Migration Agency that you are an employee. The employment should be permanent or for at least two years from the date of the Migration Agency's decision, and it may not be subsidised by the state. The lowest income you need to have is a sum based on the level that is used to calculate income support (försörjningsstöd), plus your costs

for rent, commuting, etcetera. You will need to find out exactly what applies to you when the time comes. The union should also check your working conditions. If you have committed a crime, it can mean that you are not granted permanent residency.

If you are under the age of 25, you must have completed upper secondary school studies or vocational training to be granted permanent residency for work. It does not need to be the same study programme for which you were granted a residence permit, but it must be at upper secondary school level or an equivalent vocational training programme that would have been accepted under the upper secondary school rules. If you are over the age of 25, it is enough to have a job that meets the requirements.

If your application for a residence permit under the Upper Secondary School Act is rejected, there may be an old deportation order that will come into force again. If you suspect that your application may be rejected, when you make your application under the Upper Secondary School Act, you can apply at the same time to be permitted to stay because of particularly distressing circumstances. This may be possible if you have particular ties to Sweden and other strong grounds for staying.

Note that the Upper Secondary School Act is temporary and only applies to the group of young people who were granted their first permit because of upper secondary school studies under the Limitation Act that no longer applies. It may also apply to some young people having protection status who have had the duration of their residence permit decided by the upper secondary school rules. However, their applications are primarily assessed under the ordinary Aliens Act. The rules for making a residence permit permanent are not the same under the Upper Secondary School Act as under the Aliens Act.

 *The Swedish Refugee Law Center* has published a handbook on applying for permanent residency, see sweref.org/handbok-om-permanenta-uppehallstillstand/

Swedish citizenship

When you have lived in Sweden for five years and have permanent residency you can apply for Swedish citizenship. If you have been granted refugee status or if you are stateless you will only have to wait for four years. However, if your identity has not been established the time is extended to eight years. This time is counted from the day you applied for asylum– if you are granted a residence permit by the Migration Agency or a court as part of your original asylum procedure. If you are granted a residence permit after a new assessment, that is, because of impediments to enforcement, the time is usually counted from the day of your decision to be granted a residence permit.

→ *For further information* about impediments to enforcement see page 92.

Living as an undocumented migrant and living in limbo

In its work, FARR sees that many asylum decisions are unreasonable or unjust. Only you can decide whether it is possible for you to return, if there are any other options or if your only alternative is to stay as an undocumented migrant (without a permit). Living as an undocumented migrant is a hard life with limited rights.

It is not punishable by law to provide private support for someone who has gone into hiding to avoid deportation. However, if the person providing support is doing so in order to make a profit, it is a crime that can lead to fines or prison.

The UN Convention on the Rights of the Child, which has now been incorporated into Swedish legislation, applies to all children, including those in hiding or seeking asylum. It grants all children rights – regardless of whether the child has a residence permit or not.


Health care

Adults living in Sweden without a permit (*undocumented migrants*) have the same right to health care as adult asylum seekers.

This means medical and dental care that cannot wait, maternal care, obstetric care, contraceptive advice, abortion care and one medical check-up. What constitutes care that cannot wait is up to the health care workers responsible for your treatment to decide. It does not necessarily mean emergency care but can also include care that is necessary to prevent serious consequences for the patient, or if more extensive care will be required if the treatment is postponed. Each region (previously known as a county council) can offer undocumented adults the right to more extensive healthcare if it wishes 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 health care, you will be given a backup number (“reservnummer”) that health care workers use instead of a personal identity number. It is important that you save this number and take it with you every time you seek health care. It is also good if you can bring some form of identification (an ID card, a passport or copy of an identity document) or a copy of your old LMA card that you can bring when you seek health care. If you do not have an identity document you are still entitled to care. However, you may need to provide some kind of document proving that you have been an asylum seeker, as tourists do not have the same rights.

The state covers most of the cost of your care, but just like an asylum seeker you need to pay a patient contribution. The fee can vary between different regions but a doctor’s appointment at a health centre costs 50 Swedish kronor. You will also have to pay 50 Swedish kronor for each medication the doctor prescribes for you.

 **More information** in several languages for undocumented migrants is available at the Red Cross, rodakorset.se/fa-hjalp/vard-for-papperslosa/

The health care laws regarding *professional confidentiality* apply to everyone, regardless of whether or not you have a residence permit. Under the law, health care workers are not permitted to disclose any information that may harm the patient to third parties. 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 phone 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 the police. You also do not have to give the staff your address. Instead, you can say that it is confidential. If the staff at the hospital do not know the laws regarding professional confidentiality they might phone the Migration Agency to find out where they should send the bill. The Migration Agency may then in turn phone the police. Therefore, it is important for you to tell the staff about your rights, and that it is against the law for health workers to phone the Migration Agency and tell them that you are at the hospital. This law is called the Public Access to Information and Secrecy Act (2009:400).

Children and health care

Undocumented children are entitled to all the health and dental care that they need, on the same terms as children born in Sweden. However, long-term treatments can be denied to children who are waiting for a residence permit. This is done in order to prevent harm to the child if the treatment is interrupted before it is completed because the child is to be deported.

Health care for undocumented children should be given on the same terms as for children who are living in Sweden with a permit. This means that it is free in some places, whereas there is a patient contribution after the age of 12 in others. Dental care that is covered by the national dental care subsidy is free of charge for children. Medications cost 50 Swedish kronor, as for adults.

Sometimes health care workers do not know which rules apply to children who seek health care but do not have the last four digits in a personal identity number, and they are unsure how to handle payment and registration. Therefore, it is good if you yourself can inform the staff which rules apply. For health care, you can refer to the municipality's and region's web pages, where there are guidelines about what applies in that particular place.

Support and help from the social services

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

You can apply for care, treatment or other support because of mental health, addiction or disability. The social services can also decide on care when children are exposed to psychological or physical violence, or otherwise maltreated in their home environment or if they pose a danger to themselves in terms of abuse, crime or other socially destructive behaviour. People exposed to violence in close relationships can be offered sheltered accommodation and support to process their experiences. Children who have witnessed violence are also entitled to support. You can also apply for a social welfare allowance, but many municipalities do not grant this 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 obtain help elsewhere and that the Swedish Migration Agency has no responsibility for you. Be clear that you have no other options and cannot return to your home country! You can provide a c/o address if you wish but emphasise that you live in the municipality.

Previously, the social services were required to notify the police when someone sought help, but this no longer applies. Laws regarding professional confidentiality apply and the social services may not contact the Migration Agency. The police are not entitled to ask the social services in general terms which undocumented migrants they are aware of. However, employees are required to provide information if the police or the Migration Agency contact them and request information about named people to be deported or refused entry. The social services are entitled to inform the people that their information has been disclosed.

Education

Every child between the ages of 6 and 18 is entitled to go to school in Sweden. This also applies to undocumented children. Contact the headteacher at the school that the child wishes to attend.

The school staff are not entitled to contact the Migration Agency or the police, and you do not have to tell the school your address.

Children can start going to *preschool class* the year they turn 6. There, children can prepare for *primary school*. Primary school is open to children from the age of 7. In Sweden, children attend primary school for nine years. In both preschool and primary school, the children's books and lunches are free.

After finishing primary school, pupils can choose to continue their studies at *upper secondary school*, "gymnasiet". There are many different programmes to apply for and the pupils' grades determine to which ones they will be admitted. Most upper secondary school programmes take 3 years to complete. If you embark on an upper secondary school programme while you are under 18 you are entitled to finish it even after you turn 18.

Undocumented children and young people with intellectual disabilities are entitled to attend special education programmes, *särskola*, where they receive 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 should arrange it.

University studies are not open to undocumented young people, unless they are accepted as guests on the local institute's initiative.

🔗 *The Swedish National Agency for Education* has published a handbook about undocumented children in schools: skolverket.se/skolutveckling/inspiration-och-stod-i-arbetet/stod-i-arbetet/skolans-arbete-med-papperslosa-elever

Work

If you were entitled to work without a work permit, you lose this right once you have received a final rejection of your asylum application. If you have had an ordinary 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. At the time of writing in 2022, the Tax Agency does not automatically disclose information to the police about individual workers. (However, legislation has been proposed that the police should be entitled to this information.) The Tax Agency and the police do occasionally check work and residence permits at workplaces.

If you work without a permit you do not have any job security and are not entitled to sickness benefit. You are, however, always entitled to a salary for your work, and entitled to the salary that you have been promised – verbally or in writing. Work injury insurance covers everyone, regardless of whether they have a work permit.

The trade union can try to protect your interests and can support you in case of conflict with your employer. Many unions do not organise people who lack work permits, but they might still help you get the salary you have been promised, for example. In Stockholm, there is a trade union centre for undocumented migrants operated by several unions in collaboration. The syndicalist trade union SAC organises undocumented migrants in several places.

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



Torsby, Sweden, February 2015.
Mahmoud and classmate at a lesson.
© UNHCR/Johan Bävman

EMIL

Finances and housing

Families with children who have received a final negative decision are entitled to stay in Migration Agency accommodation and continue to receive a daily allowance, although this allowance is usually decreased for adults if they are not considered to be cooperating in carrying out the deportation. Other adults, who are not living with children, may not stay on in Migration Agency accommodation and do not receive a daily allowance. Children without guardians are usually permitted to stay on in the foster home or other housing where they have been placed.

If you received a final negative decision while you were still a minor, but turn 18 while you are still in Sweden, your daily allowance will be revoked and you will be forced to leave your accommodation. When your youngest child turns 18 you do not count as a family with children anymore. Everyone in the family will lose their LMA cards and be forced to leave their accommodation.

The Migration Agency also has specific exit accommodation centres to which adults without children and families with children can be referred when they have received refusal of entry or deportation orders. These are not locked like the detention centres but are supposed to make it easier to carry out deportations.

Families with children can continue to receive a daily allowance even if they have arranged their own housing. But, as is the case for asylum seekers, they will not receive a daily allowance if their housing is in an area that the municipality has designated as an area of social and economic challenges.

🔗 See the Migration Agency's information on daily allowances migrationsverket.se/Privatpersoner/Skydd-och-asyl-i-Sverige/Medan-du-vantar/Ekonomiskt-stod.html

If you or your family move without giving your new address to the Migration Agency, or do not answer summons, you will be considered to have gone into hiding. Your LMA cards will not be renewed and your daily allowance will be revoked, even for children.

Regaining a daily allowance

If your family was in hiding but comes forward again, you can regain your LMA cards, housing and daily allowance, if anyone in the family is under the age of 18. However, this does not apply if the family has left Sweden while you were in hiding, for example, if you tried to seek asylum in another country and were sent back under the Dublin Regulation. In such a case, you will need to manage on your own if you return.

If you or your family were granted a new asylum assessment based on impediments to enforcement you can regain your housing, daily allowance and the opportunity to work, if you apply for that. This also applies to adults without children. However, you are not entitled to housing or financial support while you wait for the Migration Agency to decide whether to grant a new assessment, although the deportation may not be carried out during this time.

If the situation in your country of origin changes for the worse, or if something happens in Sweden which means that you might be granted inhibition, that is, that your deportation order will temporarily not be carried out, you can also apply to regain your rights as an asylum seeker. However, under the law (The Act concerning Reception of People Seeking Asylum and Others, 1994:137), this is not possible if you have been outside Sweden or had a temporary residence permit after the deportation order was issued.

Living in limbo

When a deportation order has taken legal effect and the period of time for returning voluntarily has come to an end, the authorities are legally entitled to carry out the deportation. The police are entitled to remove you and your family from Sweden. Yet many people stay in Sweden, despite a deportation order, without going into hiding. There are several reasons for this.

The deportation cannot be carried out by force

One common reason that deportation orders are not carried out is that the country you were to be deported to will only receive you if you travel voluntarily. Perhaps the country does not accept people who have been forcibly deported, or people of a particular category who have been forcibly deported, such as single women or families with children. Another reason may be that the country does not issue travel documents to people who do not apply for them voluntarily. Sometimes there are other requirements that the person being deported needs to meet.

If the Migration Agency considers it possible for you to arrange your own travel documents and ticket, this situation will not be regarded as a true impediment to enforcement. For example, the Migration Agency may point out that other people from the same country travel there voluntarily without impediments. At the same time, it may be impossible for the police to force the country to accept you.

If you have a deportation order that cannot be carried out by force, the situation can remain unchanged for many years. After the statute of limitations for the decision has expired, if you seek asylum again, adults and children regain their rights as asylum seekers. However, if you receive a final rejection of your application again, you will once again lose your right to support if you are an adult without children. The same is true of children over the age of 18.

The same decision can be made, even if the statute of limitations for the deportation order expires once or multiple times.

If the impediment to enforcement consists of the country of origin not accepting families with children who have been forcibly deported, a young person's 18th birthday can mean that they are arrested for deportation, as well as the parents unless they have younger children.

Sometimes teenagers who have lived in limbo like this for many years are granted residency because of particularly distressing circumstances, which means that their family can also stay. However, the child is usually required to have spent much of their time in Sweden legally, with a residence permit or as an asylum seeker.

The deportation cannot be carried out by force or voluntarily

Another situation is if the country you were to be deported to refuses to issue travel documents or receive you even if you travel voluntarily. This may be because you belong to an ethnic group that is not recognised as citizens or is not entitled to return. Another reason may be that there are rules stating that passports must be renewed within a certain period of time, or that asylum seekers are not welcome to return.

If you find yourself in this situation, it ought to be recognised as a practical obstacle so that you can be granted residency. However, this is currently not usually recognised as an impediment to enforcement until the deportation order has been impossible to carry out for the entire time until the statute of limitations expires after four years. Until then, you may receive a deportation order and become an undocumented migrant even though there is nothing you can do about it.

The Migration Agency may well consider that you could return voluntarily, even though you yourself consider that you will not be welcome in the country that you are to be deported to no matter what you do. If it is a case of impediments to enforcement or after the statute of limitations expires

you may be required to demonstrate that you have made serious attempts to carry out the deportation yourself, but this may not be enough.

One group that often finds itself in this situation is people who are stateless, i.e. who are not citizens of any country.

If the Migration Agency or the court agrees that there is an impediment, but still believes that the situation may change, you may be granted residency for twelve months at a time because of *temporary impediments*. This is still an advantage, as it means that your stay is legal and gives you the right to work, for example. A legal stay increases the chance for children, and in some cases adults, to be granted residency because of particularly distressing circumstances after a long period of time.

After several extensions, it is also possible for a *temporary impediment* to be considered to be long-term, and for the residence permit eventually to become permanent.

The deportation cannot be carried out without adequate reception

If you are a minor, have applied for asylum on your own without a guardian and have not been able to prove that you need protection, you may receive a deportation order. However, if the Migration Agency is then unable to contact your parents or someone else who can receive you, i.e. if your reception is inadequate, the deportation cannot legally be carried out as long as you are under the age of 18.

If the Migration Agency considers that there is someone who can receive you, it can issue a deportation order anyway, and if the court agrees you can stay in Sweden with a deportation order that cannot legally be carried out until you turn 18. Even if the Migration Agency agrees that adequate reception is not possible, it can still give you a deportation order as well as a temporary residence permit because of an impediment to enforcement. This is possible if you are at least 14 years old at the time of the decision. The impediment to enforcement is then classed as *temporary*, as you will turn 18 before the statute of limitations for the deportation order expires.

If you find yourself in this situation, you cannot be arrested for deportation until you turn 18, unless the Migration Agency has actually managed to contact family members or someone else who can receive you. You will be allowed to continue your stay under the same conditions as minors seeking asylum without a guardian. However, it will be difficult to be granted a residence permit that can become permanent, unless something happens that means that you have new grounds to seek asylum and can be granted a new assessment. If you have had temporary permits for a long time, you may have developed particular ties to Sweden which can mean that you are considered to be in particularly distressing circumstances.

Seek legal advice

It is difficult to be granted a new assessment or to find other ways out of your situation as an undocumented migrant. Guesses and bad advice can make your situation even worse and mean that you have to pay a lot of unnecessary money. Even well-meaning support people can give the wrong advice unless they are very experienced in legal matters. Before you make an application, try to contact a lawyer who is experienced in asylum law, or speak to experienced support people in a voluntary organisation.

🔗 **Contact** info@farr.se for factual questions or to find experienced people.
Find FARR's member organisations at farr.se/medlemsgrupper

🔗 **Find other voluntary organisations at farr.se/adresser**

→ **For further information** about impediments to enforcement see page 92.



The Nordic countries, 2021.
Photo Elisabeth Raymond.



SLAVA

Snösätra, Sweden, March 2022.

@RYMDS

Photo Jennie Leino.

UKRAINI

NAZI



@RYMDS



4

DEPORTATION AND IMPEDIMENTS TO ENFORCEMENT

Returning and enforcement

You yourself are responsible for leaving Sweden if you have received a final rejection of your asylum application. The Migration Agency is responsible for making sure that you leave Sweden if you do not arrange your return yourself. The Migration Agency can also hand over the responsibility to the police.

Returning

After receiving a decision to be refused entry or deported, you will be summoned to *return counselling* with the reception officer at the Migration Agency. At this meeting you will discuss the return trip to your country of origin, or to another country that can receive you. The Migration Agency prefers you to leave Sweden voluntarily of your own accord. When it comes to certain countries, it is possible to receive *reestablishment support*. This is a type of financial assistance for returning voluntarily of your own accord within a certain period of time. There are voluntary organisations who work to advise returnees, primarily the Swedish Red Cross. 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 the country of your own accord the Migration Agency or the police should carry out the deportation, but this is usually not permitted until the decision has taken *legal effect*, and can no longer be appealed. A decision that has been appealed to the Migration Court of Appeal takes legal effect as soon as the decision (or the decision not to grant leave to appeal) has been made. If you have chosen not to appeal, the decision takes legal effect three weeks after you received notice.

→ *For further information* about receiving notice see pages 47 and 49.

Usually you will be given a specific time limit for leaving the country voluntarily. This is usually two weeks for refusals of entry (decisions within three months of an asylum application) or four weeks for deportations. The time limit is counted from the date when the decision took legal effect. The time limit should be specified in the first decision you received from the Migration Agency.

The time limit can be extended if there are particular reasons. It can also be curtailed, if the Migration Agency considers there to be a risk that you will abscond, for example. If the time limit is curtailed, the Migration Agency or the police may immediately intervene to make you leave the country.

If you have received a transfer decision under the Dublin Regulation or a decision on immediate refusal of entry or deportation, then no time limit will be given. You are required to leave Sweden after the first decision. However, transfers under the Dublin Regulation are often postponed if the person appeals. If you have received a decision that is to be enforced immediately, you can request a stay, that is, for enforcement to be delayed, while you make your appeal, but this is rarely granted.

→ *For more information* see the section on fast-track procedures for obviously unfounded applications on page 42.

If you have not left Sweden when the time limit expires, your stay in Sweden is illegal. You will lose your right to accommodation and a daily allowance. If you live with a child of your own, you may keep your accommodation and at least some of your daily allowance. This rule is designed to protect children, but the family will still be in Sweden illegally.

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.

If you do not turn up when the Migration Agency summons you, or if you change your address without notifying the Migration Agency, the Migration Agency can hand over the task of carrying out the refusal of entry or deportation to the police. This might also happen if, for example, you threaten to hurt yourself or someone else. The Migration Agency should also hand over your case to the police if it considers that you will need to be forced to leave Sweden.

→ *For more information* about your rights as an asylum seeker see page 55 and after a deportation order see page 72.

🔗 *For more information* about support from the Red Cross for returnees see rodakorset.se/fa-hjalp/asylfragor/stod-till-atervandande/

🔗 *For more information* about financial support for returning voluntarily see the Migration Agency website migrationsverket.se/Privatpersoner/Lamna-Sverige/Avslag-pa-ansokan-om-asyl/Stod-till-ateretablering/Kontantstod.html

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 with picking you up, or they can hand over your entire case to the police.

If your case is handed over to the police, they can issue a warrant for your arrest. It is the police's job to search for you to force 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. However, it is still the Migration Agency that makes the decision should impediments to enforcement arise.

The police can also hand your case back to the Migration Agency if, for example, you decide to cooperate and to return voluntarily.

→ See page 92 for more information on impediments to enforcement.

Question: *How do the police search for people who are in Sweden without a permit?*

Answer: The police are entitled to check your ID documents if they have reason to believe that you are in Sweden without a permit.

They usually request ID in other routine cases such as traffic checks or when inspecting 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.

The police also act on tip-offs from the public. The police may conduct a specific drive to look for undocumented migrants, although this is not very common.

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

The Migration Agency is required to report to the police if it finds out where you live. Other authorities may not report to the police on their own initiative, but the police are entitled to ask the social welfare authorities, for example, about people receiving support.

Question: *For how long is the deportation order valid?*

Answer: The decision to refuse you entry or deport you expires after four years. This is counted from the day when the decision took legal effect – that is to say when it could no longer be appealed. This is usually the date of the decision from the Migration Court of Appeal.

Question: *Can I come back after being deported?*

Answer: If you leave Sweden and come back within four years, your deportation order is still valid and can be enforced again unless more than four years have passed since the decision took legal effect. You will be in the same situation as if you had been in hiding in Sweden. You can apply for a new assessment to prevent the deportation. However, this will only be granted if you can demonstrate that you have new grounds. However, if four years have passed, the statute of limitations for the decision has expired and you are entitled to seek asylum again.



Badajoz, Badajoz, Extremadura, Spain, 2022.
Carnival in Badajoz.
©Jose Pedro Ortiz.

Re-entry ban

If your asylum application is rejected and you do not leave Sweden voluntarily within a specified time limit, you will probably receive a re-entry ban. This means that you may not return to the Schengen area for a certain period of time. You can avoid a re-entry ban if there are particular reasons, such as having children in Sweden.

The re-entry ban can also be limited to Sweden. The Schengen countries include all the EU states except Bulgaria, Croatia, Cyprus, Ireland, Romania and the UK. Moreover, Norway, Liechtenstein, Iceland and Switzerland are included. Passports and visas from these countries are valid in the whole Schengen area.

How much time you have to return “voluntarily” without receiving a re-entry ban is usually specified in the first decision from the Migration Agency. Four weeks is a common time limit. The time limit is counted from the day when the decision took legal effect – that is to say when it could no longer be appealed. Re-entry bans that are only based on not leaving the country within the time limit specified in your first decision are valid for one year.

If the Migration Agency does not believe that you will leave Sweden voluntarily, they may issue a no-entry ban that is valid for two years or up to five years. That might happen if you have evaded 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.

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

If your asylum application is considered to be obviously unfounded, the main rule is that you will not be given any time limit to return voluntarily and that the re-entry ban will be issued as part of the decision, even if you cooperate. This re-entry ban is usually valid for two years. However, the Migration Agency should not issue this type of re-entry ban if there are particular reasons, 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 for the ban to be withdrawn if, for example, you apply for a work permit.

→ *The countries in Europe* with freedom of movement between them and that share external borders are called the Schengen area. For a list of these countries see page 132.

Detention

The Migration Agency's closed units are called detention centres. The decision to place a person in detention is made by the Migration Agency. If the case has been handed over to the police, it is the police that make the decision.

Reasons for being placed in detention

Under 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 asylum application you can be placed in detention

- if your identity is unclear or if you do not wish to cooperate in substantiating your identity. Having an unclear identity means that you cannot substantiate 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.

During the asylum procedure you can be placed in detention

- if the Migration Agency considers that you are not cooperating with the investigation, meaning that your asylum application cannot be assessed,
- if your refusal of entry or deportation order is to be carried out and the Migration Agency considers itself to have reason to believe that you will go into hiding or commit crimes in Sweden, or
- if you have applied for asylum when you have already been placed in detention for a refusal of entry or deportation order to be carried out and you are likely to receive a new, fast-track decision to be refused entry or deported.

Relatively few asylum seekers are placed in detention. It can be difficult to predict 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 cooperate upon refusal of entry or deportation, or that you have not been showing up at meetings to which you have been summoned by the Migration Agency or the police.

Instead of deciding to place you in detention, the Migration Agency or the police can decide to *place you under supervision*. This means that you must report to the police station or the Migration Agency regularly, such as twice a week. Children may also be placed under supervision. A decision to be placed under supervision should be reviewed within six months.

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 sufficient.

Being apprehended without detention

The law permits the police to *apprehend* foreigners to carry out a deportation. This means that a person can be apprehended, detained and transported in direct connection with deportation without it being defined as being placed in detention. This also applies to children. You may not be apprehended like this for more than 24 hours, unless there are exceptional grounds, in which case a further 24 hours is permitted.

Time limits and legal aid

If you are placed in detention you are entitled to public counsel after three days. This is usually not a problem and you are entitled to request a particular counsel. However, sometimes no public counsel is appointed, because the Migration Agency or the police consider it to be unnecessary, for example, because the deportation is to be carried out.

Your counsel can appeal the decision to place you in detention. The counsel can request, for example, for you to be placed under supervision instead or to be released entirely. The public counsel assisting you while you are in detention is not necessarily the same person who has been in charge of your application for a residence permit.

It is also possible to apply for asylum or a residence permit while you are in detention, if you have not done so already. As you are being detained, your application should be assessed quickly.

If you have been granted a public counsel to help you with your detention case, it is not part of his/her/their mandate to assist you with your application for a residence permit. However, you are always entitled to write in your own language to the court or the Migration Agency and present your grounds for needing protection in Sweden. You can also write that there are new reasons to stop your deportation (impediments to enforcement). If you have the means to, you are free to contract a private legal representative. We recommend that you seek advice from the voluntary organisations who visit the detention centres.

→ *For more information* about impediments to enforcement and new assessments see page 92.

Time in detention

If you have been placed in detention in connection with submitting your asylum application, because your identity needs to be verified, the detention may only last for 48 hours and cannot be extended. However, you can still be placed in detention on other grounds.

If you have been placed in detention in order for your asylum investigation to be carried out, you may be detained for a maximum of two weeks. If the authorities consider there to be exceptional reasons to continue to keep you in detention, the decision should be reviewed regularly. This type of detention is not intended to be long-term.

The most common type of detention, which is in order to carry out a refusal of entry or deportation order, may not last for more than two months unless there are exceptional (strong) reasons for this. It may only be extended for more than three months if the deportation is taking longer than that to be carried out, either because you are not cooperating or because there is a delay in producing the required documents.

Retaining you in detention in order to carry out a deportation is not permitted if it is unlikely that the deportation will be possible. After two months, the decision to detain you must be reviewed. In such a case, you and your public counsel will be summoned to a meeting with the Migration Agency. If your case has been handed over to the police, the meeting will be held with the police instead. After this hearing, the Migration Agency or the police will decide if there are exceptional reasons to detain you for another two months. Once these two months have passed, the decision must be reviewed again.

The time in detention cannot be extended by two months any number of times, because the law prohibits detention for more than 12 months, unless someone has been sentenced to deportation because of a crime. Decisions on continued detention can be appealed to the Migration Court.

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 country of origin's embassy with them. You can refuse to go with them and it is uncommon for the police to use violence but under the law they are entitled to do so.

You can also refuse to cooperate in other ways, for example, by not signing an application for travel documents. However, this can be used against you in negotiations concerning whether or not to prolong your detention.

Your rights while in detention

The Aliens Act states that you should be treated humanely while being held in detention and with respect for your dignity. You should be given the opportunity to 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 are entitled to health care during your time in detention, including hospital care. If you are denied the health care that you consider yourself to be in need of, you should continue claiming your right. You may not bring alcohol, other drugs or objects that might hurt yourself or others into detention centres.

You are entitled to receive visits and contact people outside the detention centre in other ways, as long as this does not interfere with the running of the detention centre. Having to book visits in advance is common. There are particular visiting rooms, but the visits may be supervised, if this 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 are not entitled to conduct body searches on visitors, that is, to check what they bring into the facility. They may, however, search you after the visit.

When you are visited by your public counsel, different rules apply. Your meeting may then only be supervised if your public counsel 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 being transferred to ordinary police custody. The security is more vigilant there. You can also be placed in police custody if you have committed a crime and been sentenced to deportation in court.

If you have not committed a crime but only been placed in police custody to separate you from other detainees, this decision should be reviewed at least every three days. You are entitled to assistance from the public counsel dealing with your detention case if you wish to contest being placed in police custody. You may not be placed in police custody if you are under the age of 18.

Children in detention

Children are rarely placed in detention. However, the law does permit it, if it is done in order to carry out a refusal of entry or deportation order.

One condition is that earlier attempts to refuse entry or deport the child have failed, even though the child has been placed under supervision. A child may also be placed in detention in connection with an immediate refusal of entry order.

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 only be placed in detention if there are exceptional reasons to do so.

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. It can be sufficient reason that the refusal of entry or deportation is being planned. Children can therefore never be held in detention for longer than 6 days. The maximum time to apprehend children in direct connection with carrying out a deportation without placing them in detention is 24 hours, or another 24 hours if there are exceptional reasons.

Impediments to enforcement – assessing new grounds

Claiming impediments to enforcement 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 assess such obstacles on its own initiative, if it is informed of their existence. But the person who has been denied asylum is usually the one to request it.

If there are impediments to enforcement, your deportation may be postponed or you may receive a new decision granting you a residence permit.

There are two types of impediments to enforcement,

- obstacles of a practical nature or that are because of things such as illness and other humanitarian circumstances
- obstacles that mean that you need protection.

The Migration Agency can make decisions regarding both types of obstacles. However, the Migration Agency's decision can only be appealed if the obstacle is because of protection grounds.

Under the section on impediments to enforcement in the Aliens Act, the Migration Agency can make its decision without reassessing the entire case. In such cases, only the new grounds are assessed. (The Aliens Act chapter 12 section 18)

If the Migration Agency does not consider it possible to make a decision immediately, it can grant a new assessment of the grounds for asylum. A new assessment is only possible if you or your representative have applied for one, and if it is based on protection grounds. (The Aliens Act chapter 12 section 19)

You are not entitled to assistance from a public counsel in order to claim an impediment to enforcement. If you have been granted a new assessment, you will be granted a public counsel. In your application, you can specify which public counsel you would like.

As a general rule, the impediments should be based on new grounds that have not been assessed before as part of your asylum case. It is common for asylum seekers to claim impediments to enforcement immediately after a final rejection, but this is seldom successful, as no new grounds have arisen. Impediments to enforcement can be claimed at any time while you have an enforceable deportation order, from the final rejection until its statute of limitations has expired after four years.

It is difficult to be granted a new assessment, and it is even more difficult if you try a second time, as your new grounds will no longer be considered new. Therefore, it is wise not to claim impediments to enforcement on your own. If you cannot afford to pay a lawyer, you may be able to make an agreement with someone who can help you and who can then become your public counsel, paid by the state, if you are granted a new assessment.

Children and impediments to enforcement

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

Practical/medical impediments to enforcement or protection grounds?

No matter which type of impediment to enforcement you request the authorities to assess, it is unlikely to be approved. Circumstances that you have presented before – or could have presented – are usually not enough even if there is new evidence. Both sections of the law concern new circumstances that mean that the decision cannot be enforced.

As practical/medical impediments and new protection grounds are handled differently by the authorities, it may be a good idea to consider which type of grounds you have.

A practical impediment – 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 enforcement. Under the law, there must be *reason to assume* that the receiving country will not allow you to enter. This must not, however, be because you are refusing to cooperate. You may be accused of this if you refuse to visit your country of origin's embassy to obtain travel documents, or if you do not make sufficient efforts to obtain ID documents. Another example, that is described in a particular section of the law, is if a child without guardians is to be deported but the reception in the country of origin is inadequate. In such a case the family needs to be tracked down – a task that is often expected of the child.

Medical impediments or other particular reasons for not carrying out the decision

In such a case, a medical impediment does not refer to your health in your country of origin, but rather whether you are too ill to survive the flight. There may also be humanitarian impediments, such as your child being severely ill and not being able to receive the required health care in your country of origin.

Perhaps you have developed strong ties to Sweden that did not exist when the deportation order was issued. If you have started a family during your time as an asylum seeker, you may be entitled to live in Sweden. Usually, an application based on these grounds should be made from abroad. However, if there are children who would suffer from being separated from you, 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.

If you are dying or very seriously ill, physically or psychologically, and risk being so ill-treated in your country of origin that it could be comparable to torture or inhuman treatment, your representative can request for the situation to be treated as an impediment to enforcement based on protection grounds, with the opportunity for a new assessment and the right to appeal.



Photo by Eleonora on Unsplash, 2020.

Impediments to enforcement based on new protection grounds

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

Other examples are that the authorities of that country have become more interested in you, or 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, if you as a woman have become single, and come from a country to which women cannot be deported without a male network.

The reasons must have been impossible to assess earlier, or there must be a *valid excuse* (good explanation) for you not having put them forward before. However, if the Migration Agency or the court agrees that the threat is *likely*, it should be assessed, even if you could have put it forward earlier.

Assessment of impediments to enforcement (12:18)

The Migration Agency should assess on its own initiative whether there are any impediments to enforcement, if it “comes to light” that the refusal of entry or deportation order cannot be carried out. Anyone can inform the Migration Agency of the impediments. For example, the police can notify it of the fact that it is not possible to carry out a deportation to a certain country or a doctor can testify that the patient is too ill to fly. An appointed (independent) guardian (god man) or reception officer can also bring impediments to enforcement to light.

Of course, you yourself or your representative or lawyer can also inform the Migration Agency that there are new reasons that make it impossible to carry out the deportation. When it comes to practical and medical impediments, only the Migration Agency can make the decision, and it cannot be appealed.

Impediments that are not recognised

The Migration Agency rarely accepts that there are impediments to enforcement. Even if the police informs them that your country of origin is not willing to receive you, this is hardly ever enough to make the Migration Agency cancel a deportation or refrain from issuing a deportation order. The individuals may genuinely try to obtain travel documents and meet all the other requirements, but the Migration Agency still judges that they have not done enough. Unaccompanied minors may have done everything in their power to find their parents, or submitted evidence that their parents are no longer in the country, but it is not enough.

In one ruling, the Migration Court of Appeal has ruled that the Migration Agency needs four years (until the statute of limitations for the deportation order has expired) to assess whether it was possible to eliminate the impediment to enforcement. This case concerned a stateless family whose country of origin would not receive them. In an older verdict, the Migration Court of Appeal stated that an attempt to carry out the deportation must have been made before it can be established that there is a practical impediment to enforcement. These verdicts concern impediments to enforcement that were anticipated in the original cases. At the same time, there must be new circumstances for impediments to enforcement even to be considered after the deportation order has taken legal effect.

All in all, the strict assessments mean that many asylum seekers end up in limbo in Sweden, with no residence permit, but with deportation orders that cannot be carried out. Some of them receive deportation orders and live as “undocumented migrants”. Others are granted short residence permits because of temporary impediments to enforcement, sometimes at the same time as they receive their deportation order. *Temporary* means that the decision-maker considers it possible that the impediment will not be permanent.

→ For further information about the situation for undocumented migrants in limbo see page 77.

New assessment of needs for protection (12:19)

When it comes to impediments because of new circumstances that put you in need of protection, the Migration Agency also makes the first decision.

There are three possible responses.

- **No.** The Migration Agency does not consider this to be a new circumstance that concerns a need for protection. This is the most common response!
- **Yes.** The Migration Agency agrees that you have new grounds that mean that you are in need of protection. You are then granted a temporary residence permit under section 12:18.
- **You are granted a new assessment.** The Migration Agency agrees that what you have put forward concerns a need for protection but cannot decide straight away whether it is enough to grant you a residence permit. Your case is then re-assessed, under section 12:19.

In order to be granted a new assessment of your asylum case, you must demonstrate that you have new grounds that have not been assessed before and that mean that you are in need of protection in Sweden. Practical impediments to enforcement, or your ties to Sweden, will not be considered in an assessment like this. Neither will medical reasons, unless the deportation would mean exposing you to treatment that could be comparable to torture or inhuman treatment. Sometimes the situation in a country has changed so drastically that most people with deportation orders are granted a new assessment. However, it is by far more common that your application must concern your personal situation, even if circumstances have changed in your country of origin. Therefore, in your application you should describe your own new reasons in detail, including information about your country of origin. It is difficult to judge on your own which reasons may be sufficient for a new assessment to be granted. Therefore, it is a good idea to ask for assistance from a legal representative if possible.

Evidence

Examples of evidence of practical impediments to enforcement include country of origin information, identity documents, certificates and witness statements from visits to embassies, tickets, recordings or other documents that demonstrate your efforts to be able to enter the receiving country.

If you claim medical reasons as impediments to enforcement 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.

🔗 Use the Migration Agency's forms for doctor's certificates, search for *Utlåtande från läkare* (Doctor's statement) on the page for forms, migrationsverket.se/Kontakta-oss/Blanketter.html

When it comes to an impediment to enforcement because of a need for protection you must explain why it really constitutes a need for protection and how it differs from the grounds that you have put forward earlier. You must also explain why you have not been able to put forward these new circumstances before. There may be a valid excuse, for instance that the events are recent. In some cases, having repressed or not having been able to talk about certain issues because of your psychological condition may constitute a valid excuse.

→ *For further information* about protection grounds see the section on the grounds of asylum seekers, page 11.

If you are granted a new assessment

If your application for an assessment of impediments to enforcement is accepted, but the Migration Agency does not immediately consider that your new grounds for asylum are enough to grant you a residence permit, your asylum case will be reopened. In this situation, all your grounds for asylum will be re-assessed, not only the new ones. It is as if the whole asylum procedure had started from the beginning, except that purely humanitarian or practical reasons will not be taken into account. A new assessment only concerns protection grounds.

The deportation is cancelled until further notice (you are granted a stay) and you are usually also granted a public counsel. You are given the opportunity to put forward all the relevant information about the current situation in your country of origin and the risks you face if you are deported there. The Migration Agency will eventually make a decision that may be positive or negative. A negative decision may be appealed just as if you had submitted a new asylum application, and the entire case will then be handed over to the Migration Court. If you have not been granted a public counsel you can request the Migration Court to grant you a public counsel when you appeal.

If impediments to enforcement arise in a security case, the case is handed over to the Government to make a decision.

If you are denied a new assessment

If the Migration Agency says no straight away and does not wish to make a new assessment because of your impediments to enforcement, you can appeal the decision to a Migration Court, but only if you have applied on protection grounds. In the last instance the decision can be appealed to the Migration Court of Appeal. It can be an advantage to have a representative to help you. When you appeal you can request a public counsel. Adults are often refused but unaccompanied children are entitled to a public counsel when a new assessment of their case has been refused.

Remember that the appeal only concerns whether or not you will be granted a new assessment.

If you are denied a new assessment, appealing the decision is not always the wisest thing to do. This is especially true if the situation concerns practical or medical impediments, your ties to Sweden, the well-being of a child and similar circumstances. It is also true if you suspect that the court is highly unlikely to agree that you have protection grounds that have not been assessed before. It can also be a good idea to speak directly to your case worker at the Migration Agency, as this is where decisions on impediments to enforcement 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 decision maker at the Migration Agency realise that it is not, in fact, possible to put you on the plane.

The duration of residence permits when there are impediments to enforcement

- A residence permit granted because of impediments to enforcement after a new assessment of the grounds for asylum is for three years (on protection grounds) or thirteen months (on subsidiary grounds), as in an ordinary asylum assessment.
- A residence permit granted on the basis of a long-term practical or medical impediment to enforcement is usually for thirteen months.
- A residence permit because of *temporary impediments to enforcement* is for twelve months or less.
- A shorter residence permit can be granted for particular situations, such as a medical treatment or testifying in a trial.
- Residence permits because of impediments to enforcement can be extended by one year at a time if the impediments remain.

You cannot be granted permanent residency when your deportation has been stopped because of impediments to enforcement. However, after three years with a residence permit, you can be granted permanent residency if the impediment remains or if you can be granted residency on some other grounds. There is an exception: permanent residency cannot be granted because of *temporary impediments* to enforcement. However, if an impediment has been considered to be temporary for several years, the Migration Agency can re-evaluate it and treat it as a long-term impediment.

Question: *How likely is it that the deportation will be stopped because of impediments to enforcement?*

Answer: The vast majority of applications to stop a deportation because of impediments to enforcement are rejected by the Migration Agency, and it is unusual for the Migration Courts to come to a different conclusion.

You can claim impediments to enforcement several times if further needs for protection, new evidence or practical impediments to enforcement arise.

But every time you call attention to an impediment to enforcement the circumstances you present are “used up”. If you submit a new application, these circumstances will not be considered new any more, as you have already presented them. Therefore, it may be better to wait to apply again, and ensure that your new application is well-substantiated and that 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 an experienced representative.

If not much time remains until the statute of limitations for your deportation order has expired (four years after it took legal effect), you can wait until then. After the statute of limitations has expired, you can make a new asylum application in which all your grounds for protection are considered, even if you have mentioned them before.

Question: *May I wait in Sweden while my case is being decided?*

Answer: If you have received a decision by a Migration Court or the Migration Court of Appeal that has gained legal force (that is, it can no longer be appealed), you are not entitled to live in Sweden while you wait for the decision concerning the assessment of impediments to enforcement.

The exception is if you have requested a new assessment based on protection grounds. In such a case, the deportation cannot be carried out until the Migration Agency has made a decision on whether or not to grant you a new assessment. If you appeal and request a stay order, the deportation cannot take place until the court has made a decision on this request. However, this rule only applies if it is the first time you are requesting a new assessment. The Migration Agency or court can also make a specific decision on whether or not to grant a stay order, in which case you will be informed of this.

If you are granted a new assessment, the deportation may not be enforced until the new assessment has been completed. However, it is difficult to know how long a reprieve like this will last, as it expires as soon as the Migration Agency has made its decision, and the police may find out before the decision reaches you.

Question: *The Migration Agency cannot deport me, but will not grant me residency either. For how long can this situation go on?*

Answer: Even if it is the country you are to be deported to that does not wish to receive you, it can be very difficult to prove this. It can also be difficult to prove that new circumstances have arisen. In cases like this, you may face a long wait.

There is no time limit. If a new asylum case is opened when the statute of limitations for the previous deportation order has expired (after four years), the Migration Agency can give a little more weight to your ties to Sweden and other distressing circumstances, especially for children. After many years, the rules in the UN Convention on the Rights of the Child and the European Convention on Human Rights can also be arguments against issuing a new deportation order.

It is important to remember that it is not considered an impediment to enforcement if you could travel on your own.

→ *For further information* about living in limbo and how practical impediments are assessed see page 77.

Switching tracks

If your asylum application has been rejected but you have worked in Sweden while you were seeking asylum, it is possible to “switch tracks” and apply for a residence permit based on your employment without having to leave Sweden first. The application must be made within two weeks after the deportation order took legal effect! So speak to your employer in advance if you suspect that your application will be rejected, even if you are considering claiming impediments to enforcement for some other reason.

In order to be granted a residence permit for work, you need to have a valid passport. You must also have worked with a permit for the same employer for at least four months, and be promised continued employment there for at least one more year. Otherwise, the rules are similar to those that apply when applying for a work permit from abroad. However, your employer is not required to advertise the job.

Extensive instructions can be found on the Migration Agency’s website about which conditions the job should meet and what the employer needs to do for you to be entitled to stay because of your job.

🔗 *For further information* see the Migration Agency’s website migrationsverket.se/Privatpersoner/Arbeta-i-Sverige/Anstalld/Du-som-redan-ar-i-Sverige.html

→ *For further information* about work permits see page 25.

When Sweden does not provide protection

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

These bodies can assess your case and form their own opinion, even if Sweden considers you not to be in need of protection. Before you can turn to them you must, however, have reached the end of the asylum procedure in Sweden, so that there are no more opportunities to be granted protection here. You must have appealed all the way to the Migration Court of Appeal. The European Court of Human Rights requires for no more than four months to have passed since the decision in Sweden took legal effect. This rule is not always applied to asylum cases, but it is wise not to wait any longer than that.

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

This possibility should only be used if you risk serious abuse in your country of origin, or if the deportation would violate one of the human rights conventions overseen by the international bodies in some other way. Making this type of application is a significant undertaking and it should be done by an experienced lawyer who is familiar with your case as well as the international conventions.

The most common bodies are

- *The United Nations committees for human rights*
These meet in Geneva. The most important ones for asylum seekers are the committees that monitor the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of People with Disabilities and the International Covenant on Civil and Political Rights.
- *The European Court of Human Rights*
It is located in Strasbourg in France and monitors whether the states that have signed the European Convention on Human Rights respect it.

An application to one of these bodies must specify which article in the convention you believe Sweden would be violating by deporting you. Lawyers who work with international cases usually read previous rulings and decisions which show the reasoning processes of the various bodies.

The *Convention on the Rights of the Child* is not included here, as Sweden has not signed the appendix to the convention that states that individuals may make a complaint to the Committee on the Rights of the Child. This means that you cannot report the deportation to them even if it would violate the rights of a child.

Neither the UN committees nor the European Court of Human Rights examine all the cases that are sent to them. If they agree to reassess your case you must be prepared to wait for a long time – years, in the worst-case scenario – for a decision.



Stockholm, Sweden, March 2022.
A protest at Sergels torg against Russia's war in Ukraine.
Photo Fredrik Andersson, Unsplash.com

The Committee Against Torture, CAT

The Committee Against Torture, CAT, is a UN body whose task it is to make sure that no member state uses torture.

The convention also includes an article prohibiting the deportation of anyone at risk of torture.


Article 3

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.

The Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

CAT primarily concerns itself with cases where the authorities in the country of origin can be held responsible for the torture.

 For further information see www2.ohchr.org/english/bodies/cat

The Committee on the Rights of People with Disabilities

The committee that monitors the Convention on the Rights of People with Disabilities (CRPD) is relatively new. Its purpose is to counteract discrimination against people with disabilities in many different situations.

This convention also includes an article against torture.


Article 15

1. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his or her free consent to medical or scientific experimentation.

2. States Parties shall take all effective legislative, administrative, judicial or other measures to prevent people with disabilities, on an equal basis with others, from being subjected to torture or cruel, inhuman or degrading treatment or punishment.

The Convention on the Rights of People with Disabilities

One example of the type of question the committee can look into is whether the state has given enough weight to whether your disability could make the situation in your country of origin more dangerous for you.

 For further information see ohchr.org/EN/HRBodies/CRPD/Pages/CRPDIndex.aspx

The United Nations Human Rights Committee

The United Nations Human Rights Committee monitors the International Covenant on Civil and Political Rights (CCPR). The convention includes articles on human rights and the rule of law in several areas.

It includes the ban on torture, but also, for example, protection for religious freedom which can of course also be threatened by deportation.

Article 6

1. Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life. [...]

Article 7

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. [...]

Article 18

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching. [...]

The International Covenant on Civil and Political Rights

 For further information see ohchr.org/EN/HRBodies/CCPR/Pages/CCPRIndex.aspx

The European Court of Human Rights, ECHR

The European Court of Human Rights, ECHR, monitors the European Convention on Human Rights. This also includes an article prohibiting torture and thereby also deportations to torture. There are also articles concerning coercive measures such as placing people in detention as well as collective deportations. The European Court of Human Rights has also become an important body in the defence of privacy, family life and the rights of children.

Some of the subjects it has concerned itself with include transfers to inhuman conditions within the EU as well as deportations of young people who have grown up in the country.


Article 3

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

Article 8

1. Everyone has the right to respect for his private and family life, his home and his correspondence. [...]

The European Convention on Human Rights

 For further information about the European Court of Human Rights see echr.coe.int/ (click on applicants.)

How to apply to an international body

Read the instructions on the body's website carefully – see the addresses above. The European Court of Human Rights is very particular about how the application should be made and the right forms must be used. The forms are available in many languages, including Swedish. Swedish is not an official language of the UN but there are application forms for the UN committees in several other languages.

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 the Migration Agency, the Migration Court, and the Migration Court of Appeal.

The European Court of Human Rights requires your application to be complete from the beginning, including all the documents from your asylum case. In the form, you or your legal representative should specify which article or articles in the European Convention on Human Rights your deportation violates, and explain why. You do not need to send all your documents to the UN committees to begin with, but you do need to give a detailed description of your case in a language which is accepted, such as English. Later, you will need to supplement the sections of your documents that need to be examined, including a translation.

If the international body decides to process your case, the Swedish Government will be allowed to comment on your application. After that, your legal representative will need to respond to the Government's submissions and argue against them.

You cannot usually expect your public counsel to make an appeal to an international body. It is not included in their assignment. Because the amount of work involved in this type of application is significant, it costs a lot to pay a private legal representative. Sometimes medical certificates from experts are required, which can be expensive. You can ask voluntary organisations if they believe in your case and would like to support you. Amnesty International in Sweden has a particular fund for these types of costs. If you contact the Amnesty Fund, they will wish to start by assessing your case to see if they believe it is possible for you to succeed in an appeal to an international body.

🔗 *For further information* about the Amnesty Fund see amnesty.se/om-amnesty-fonden/stod-till-flyktingar-i-sverige/

🔗 *The Sanctuary Fund (Fristadsfonden)* is owned by the Left Party (Vänsterpartiet) and can contribute to legal or medical costs in distressing cases. The contact address is fristadsfonden@vansterpartiet.se

Question: *Can a UN committee or the European Court of Human Rights stop my deportation?*

Answer: Yes. Both the UN committees and the European Court of Human Rights can 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 the convention that they monitor if you were to be deported before the committee or the court had time to examine your case more carefully.

The European Court of Human Rights calls this procedure *Rule 39*. There is a particular form for Rule 39 that should be sent by fax or post – not email.

Under the Swedish Aliens Act, a request like this should be respected and the Migration Agency should grant a stay, unless there are exceptional reasons not to.

If the UN committee or the European Court of Human Rights decide that Sweden has committed an error and that you should not have received a deportation order, Sweden should comply and grant you a residence permit.

Question: *Can I turn to the UN and the European Court of Human Rights at the same time?*

Answer: No. The UN committees do not usually process a case that has already been dealt with by the European Court of Human Rights either. However, they can make an exception if the European Court of Human Rights never assessed the case in substance.



Rome, Italy, 2021.
Photo Eleonora, Unsplash.com





Work by Susan Wilkinson, unsplash.com/@susan_wilkinson

5

HOW YOU CAN INFLUENCE YOUR CASE

General advice for asylum seekers

Reveal everything right from the start

Neither the Migration Agency nor your public counsel know as much as you do 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 your specific 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 that you need to continue at a later sitting. Talk to your public counsel about it as well! Your grounds for asylum consist of what could happen to you if you are deported. It is not enough that you have already been badly treated. However, what you have experienced may be important, to demonstrate the risk of it happening again.

If something that might potentially help you to be granted a residence permit should occur during the asylum procedure, such as you entering into a relationship with someone in Sweden or your health deteriorating significantly, it is very important to inform your public counsel as soon as possible.

It is not a good idea to “save” grounds in order to put them forward later. It is true that you must have new grounds in order to be granted a new assessment after a rejection – but the likelihood that the authorities will listen to your grounds is much greater if you reveal everything from the beginning. There is a significant risk that anything you “save” will not be accepted as new grounds because you do not have a valid excuse for not having mentioned it previously.

If you know that most applicants from your country have received a negative decision, you need to put forward your grounds for protection as soon as possible, if possible at the same time as you submit your asylum application. This is particularly important if you are from one of the following countries, which the Migration Agency considers to be safe: Albania, Bosnia and Herzegovina, Chile, Georgia, Kosovo, Mongolia, North Macedonia and Serbia.

Choose your public counsel

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 assessing your asylum application). You then have an opportunity to mention a lawyer that you have been recommended, or to accept the one suggested by the Migration Agency. If you wish to choose one but do not know of anyone at that time, you can ask to submit a name within a few days.

→ *For further information* about your right to a public counsel and the opportunity for changing see pages 42 and 45.

Cooperate with your public counsel

It is extremely important that you cooperate with your public counsel. Ideally, you should meet with your public counsel before the asylum interview – make contact yourself if he or she does not.

If your interview at the Migration Agency takes place before you have been granted a public counsel, you should nevertheless describe in detail to the public counsel why you require protection in Sweden. You must be detailed; it is not enough for you to say that there are a lot of problems in your country of origin. Tell him or her why you specifically 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 can see if the Migration Agency's investigator has misunderstood something or if important information is missing.

Contribute knowledge about the country from which you have fled

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

🔗 See *Lifos*: lifos.migrationsverket.se

🔗 See also the *EU equivalent*: www.ecoi.net

Account for your grounds for seeking asylum in detail

It is important that you describe your grounds for asylum in as much detail and as truthfully as you can, and as much as possible in chronological order.

Try to acquire documentation to substantiate your story, preferably at the start of the asylum procedure. The documents should substantiate your need for protection or the exceptionally distressing circumstances that your application concerns. Appropriate documents can be police summons, court documents, medical certificates, threatening letters, newspaper clippings etcetera.

Hand over all the material in the original in an envelope to your public counsel. Also, always make 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. If the Migration Agency discovers that a document is not authentic they may question your entire story, not just the specific circumstances that this document concerns.

If you have been politically active in your country of origin, political organisations in exile can sometimes help to find evidence 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 organisation or something else that substantiates your political involvement. Explain what effect your activities in Sweden would have if you were to return to your country of origin.

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 this type of information reaches your public counsel 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. It might even mean that you are considered untrustworthy.

If you do not wish 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 public counsel. You are entitled to request confidentiality even in relation to those closest to you.

If you are seeking asylum as a family, you are still entitled to be heard as individuals. Even if, for example, only the man has been politically active, the woman may have been subjected to things that it is important for her to convey. The children may have experiences of which the parents are not aware.

Check that everything is correct

If you recall something important that you have forgotten to disclose, contact your public counsel. You can write your story down in whatever language you wish and send it to your public counsel. If you write in your own language it is a good idea to write a heading in Swedish or English.

The Migration Agency has specific guidelines concerning gender and sexual orientation that the case workers should abide by and that may make it easier for you to account for your grounds for asylum. A female asylum seeker is entitled to request to be interviewed by a female case worker with a female interpreter, but there are no guarantees that your request will be granted.

In the assessment of your need for protection, dates and times are of great importance, especially if they turn out to contradict each other. You must therefore be careful to make it clear what you are certain that you remember, and what you only think you remember. In some cases, you can indicate the time by stating what season 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 because of mistakes in the interpretation or other misunderstandings. Therefore, it is important that you study the documents that your public counsel submits so that you can check that they are correct. If you are interviewed by the Migration Agency or if an oral hearing is held that is documented in writing, it is also important to have 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

It is useful to know why the migration authorities often reject applications for asylum. Here are some of the most common reasons.

Your case should not be assessed in Sweden

You have been to another EU or Dublin Regulation country (see page 33) or another country that is considered safe. Your asylum application should therefore be assessed there. It can be enough that you have had the option 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 should be assessed in the first safe country where the applicant has had the opportunity to seek asylum.

You are not credible

The migration authorities believe that you have provided contradictory information, that your story is too vague and lacking in detail, does not seem to reflect your own experiences or contradicts country of origin information. Your evidence can also be called into question. Sometimes, for example, the authorities believe that evidence in the form of copies of court decisions and other documents have been falsified. Your credibility can also be called into question if you are unable to provide sufficient proof of your identity.

You do not risk serious abuse

The migration authorities do not believe there is a genuine and predictable risk that you will be subjected to persecution, torture, inhuman or degrading treatment or excessive punishment if you are sent back to your country of origin. 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 application may be rejected for this reason even if you have been subjected to abuse 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 even in these cases you can obtain protection from the authorities.

You can move to another part of your country of origin

The migration authorities may accept that you cannot live safely in your home region but still urge you to seek protection in another part of your country of origin where you are not threatened by persecution. This is called an *internal protection alternative*.

The crisis in your home country is not severe enough

You are 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 demonstrate 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 receiving a negative decision.

You have submitted important information too late

You have not disclosed important grounds for seeking asylum until after the deportation order from the Migration Agency, despite knowing of them earlier. This can lead to your new grounds 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 being granted asylum.

If you have been a victim of severe traumatic violations in your country of origin and are too frightened to tell the whole truth from the beginning, the authorities should show understanding. Then the risk is smaller that the new facts will be disregarded as less credible. However, you may need a certificate from a psychiatrist or a professional medico-legal certificate, for example, in order to persuade the authorities to accept this.

The situation in your country of origin has improved

The situation in your country of origin has taken a turn for the better since you fled and the migration authorities judge that the threats against you are no longer serious enough to grant you asylum. Perhaps you deserted from the army and later the government introduced an amnesty for deserters. Or a United Nations force has started operating in your country of origin 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 judged to be especially interested in you.

You are not considered to be in distressing circumstances

You may be seriously ill from a disease that cannot be treated in your country of origin or have strong ties to Sweden, reasons that under the Aliens Act can be distressing circumstances that give you the right to stay. However, your disease is not considered to be life-threatening, or the Migration Agency considers that treatment is available in your country of origin. If you have children who have lived in Sweden for many years, the migration authorities can consider that the children still have stronger ties to their parents than to Sweden, or that the children still have contacts in their country of origin or speak the language there.

Your reasons for fleeing are not covered by Swedish law

Examples of grounds that are not sufficient to be granted asylum under the Aliens Act are discrimination that is not regulated by law or has not led to serious persecution, or problems with the Mafia or other criminal groups. Sweden considers that your country of origin can protect you from these types of situations. Your reasons can also be seen as financial. If you are poor, do not have a place to live or a job, this is not usually seen as valid grounds for asylum in Sweden, even if your situation has arisen through discrimination.

Specific advice for women

The Aliens Act is supposed to be gender neutral. At the same time, the asylum procedure has been shaped by a traditionally male perspective. In practice, this makes it difficult for women to have their grounds for asylum recognised, as they are often persecuted in different ways than men.

Try to find a public counsel with specific experience of women's asylum grounds

If you have grounds for asylum that are related to your gender it may be important to have a legal representative with experience of women's asylum applications.

🔗 *Look for suggestions* via FARR's member organisations at farr.se/medlemsgrupper or other organisations at farr.se/adresser

Draw attention to your grounds yourself

During your asylum investigation, it is important that you yourself draw attention to your gender-related needs for protection. Otherwise there is a risk that your legal representative and the authorities might overlook them.

Emphasise 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 grounds for seeking asylum may not necessarily be regarded as political. Protests against social, cultural and religious norms do not always match the image of what counts as politics. Therefore, it is important for you to emphasise that your activities or your way of life were the result of political choices, even if you may not have been organised in an overtly political movement.

If the migration authorities do not regard you as being a refugee on political grounds they can assess other grounds listed in the same section: persecution because of gender. Under 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

Government bill 2005/06:6

This section is also relevant if you have been persecuted for being *transgender*, that is, if you have challenged societal norms regarding gender identity or gender expression. 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 because of gender means abuse against women for being women.

→ *For further information* about the persecution of non-binary, transgender and other LGBTIQ people see the section on persecution because of gender identity, page 117.

The Migration Agency has stated 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 country of origin, like wearing a veil. It may also be that someone wishes to force you to marry or be circumcised. If you have fled for reasons like this you should clarify that you have made a conscious decision to act in ways which run counter to societal norms.

The expression persecution because of gender is also used to describe persecution on other political or ethnic grounds, 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 demonstrate that the abuse was systematic.

Reveal everything as early as possible

Under 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 express yourself in a way the Swedish case worker does not understand, because of cultural or language differences between men and women, or between Sweden and your country of origin. 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 public 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 as soon as possible. You are entitled 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 also 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 investigation will mostly be based on your testimony.

Reveal things at the right time

It is important that you yourself actively present your grounds for seeking asylum during the asylum investigation itself, rather than waiting to be asked about your family circumstances or other similar information.

Explain why you cannot obtain protection from the state

A common reason for the Migration Agency to reject someone's application is that they believe that you can seek protection from authorities or organisations in the country from which you have fled. If this is not possible in your case, it is important that you prove this. The abuse might have been sanctioned by authority figures, or there might not be any legal or practical protection against the persecution to which you have been subjected.

Under the Migration Agency's internal guidelines, the investigator should take into consideration that in many countries it may be more difficult for a woman to be protected by the authorities, and also that it can be difficult for women to report certain types of abuse.

If you wish – request a separate interview

If you do not want your husband, wife, co-habiting partner or children to hear of certain things that you have experienced, you can request to be interviewed separately concerning your own grounds for asylum. You can also request that the decision based on these grounds be sent separately, and that the information should not be disclosed to your partner or the rest of your family. You can also request a different public counsel than the one who is assisting your partner.

If you need to testify against traffickers

A person who has been a victim of human trafficking can be granted a temporary residence permit to testify against the perpetrators. This must be requested by the prosecutor in the case or by the social services. These kinds of temporary residency permits should be valid for at least six months. The fact that you are permitted to stay for this reason does not stop you from applying for refugee status.

Persecution because of sexual orientation, gender identity and/or gender expression

If you have been persecuted in your country of origin because of your sexual orientation, gender identity or gender expression, you can seek asylum in Sweden on those grounds. Discuss your grounds for asylum with your public counsel before your asylum investigation. As an asylum seeker, you are entitled to choose a public counsel who is experienced in LGBTIQ issues.

The abbreviation LGBTIQ stands for lesbian, gay, bisexual, transgender, intersex and queer. The abbreviation SOGIESC is used in asylum rights contexts. It stands for *sexual orientation, gender identity/expression and sex characteristics*.

Assessing LGBTIQ cases

The asylum seeker's oral story/testimony is often the primary and only evidence in the asylum investigation, in cases where other important documentation is missing or cannot be provided by the authorities in the country of origin. After the oral investigation, the Migration Agency makes its assessment according to the following steps:

1. First, it assesses whether you have substantiated that you belong to, or are considered in your home country to belong to, a group that risks persecution because of their sexual orientation, gender identity and/or gender expression.
2. Then, the situation for LGBTIQ people in the country of origin is assessed based on relevant and current country of origin information.
3. Then, it assesses whether you have demonstrated, through your story, that persecution in the country of origin is likely.
4. Then, a forward-looking assessment is carried out of whether there is reason to believe that you could be persecuted if you return. If persecution has already taken place, this is considered to indicate that there is still a risk of persecution.
5. Finally, it assesses whether the authorities in the country of origin could offer protection or whether an internal protection alternative is possible.

Your story needs to be coherent, detailed and without contradictions. The story may not contradict what the Migration Agency considers to be *commonly known facts*. It should be unchanged, on the whole, during the asylum assessment in different instances. If the Migration Agency considers the information you provide to be credible, it will assume that your information is accurate when it continues to assess whether your grounds are sufficient. If the Migration Agency does not consider your story to correlate with commonly known facts, new country of origin information or other facts may be needed to demonstrate that your story is in fact true.

Neither the Migration Agency or the migration courts can demand that you as an LGBTIQ person be forced to return to your country of origin if the only way to avoid persecution would be to hide your LGBTIQ identity.

The burden of proof

As an asylum seeker, you need to substantiate that it is likely that you are an LGBTIQ person. It can be more difficult to prove to the Migration Agency that you are an LGBTIQ person than that you belong to a religious group or ethnic minority that faces discrimination, for example.

Recommendations for your application

Tell the Migration Agency early in the process that you are seeking asylum because of your sexual orientation, gender identity and/or gender expression. As an LGBTIQ person you are entitled to request an interpreter, a case worker and a public counsel who are experienced in LGBTIQ issues, so that you feel secure during the entire asylum procedure. You make these requests at the reception unit where you were registered.

Advice during the asylum procedure

- Tell the Migration Agency as soon as possible that you risk persecution in your country of origin because of your sexual orientation, gender identity and/or gender expression. You do not need to provide any details about your grounds for asylum without having your public counsel present, but it is important that the Migration Agency registers your application as an LGBTIQ case right from the beginning.
- Choose a public counsel with experience of the asylum cases of LGBTIQ people.
- Contribute information on your country of origin if you can. Highlight the information that is particularly relevant for your asylum case as a transgender person, and try to find reports and newspaper articles documenting violence, abuse and assault towards LGBTIQ people.
- Try to collect documentation concerning your asylum case, such as medical records, threatening letters, screenshots of threats on social media, etcetera. It is important to show any written evidence to your public counsel before you submit documents concerning your case to the Migration Agency. It is important that your public counsel helps you to judge which documents are relevant to put forward to substantiate your grounds for asylum.
- Stay in close contact with your public counsel. Ask for a preparatory meeting before your asylum interview and a meeting afterwards when you can go over the minutes together.

Difficult to talk about – but extra important to put forward

If you need to, you can ask for a pause in the investigation. When the Migration Agency is assessing your grounds for asylum, the case worker should try to adapt the investigation to your age, maturity and health. If you do not understand a question – say so! If you do not understand the interpreter, it is also important to make this clear. Do not wait until later in the investigation or afterwards; then it may be too late.

During the asylum investigation, you will be asked about your identity, your family, what has happened to you in your country of origin, how you travelled to Sweden and what you think will happen if you are forced to return. You will probably have heard the questions before, but during the investigation you will have the chance to say much more than you did during your first interview at the Migration Agency. The case worker will ask follow-up questions and ask you for more details in order to really understand your story. Try to answer all the questions as carefully as you can. If you are asked the same question several times or are summoned to a follow-up investigation, this does not mean that you have given the wrong answer, just that the case worker needs more information. It is important to show your public counsel any documents, photographs and other evidence that can substantiate your story and demonstrate what you risk if you return, and to go over them together. Do not submit any other documents than identity documents to the Migration Agency without showing them to your public counsel first.

Most asylum seekers are granted a public counsel, who is a lawyer paid by the state. At your first meeting with the Migration Agency, or as early as possible in your asylum procedure, you can request a public counsel with experience of LGBTIQ issues. If the Migration Agency has already assigned you a public counsel who has begun to work with you, particular reasons will be required for you to be permitted to change. Unfortunately, experience of LGBTIQ issues is not considered sufficient reason to change your public counsel, so remember to ask for a specific public counsel right from the beginning by submitting the public counsel name and contact details. You can contact the Swedish LGBTIQ organisation RFSL to help you find public counsels who are specialists on LGBTIQ issues. As an LGBTIQ person, it is important to have a lawyer who is familiar with seeking asylum on LGBTIQ grounds and who can therefore safeguard your interests during the asylum procedure.

You can find help here

RFSL: The Swedish Federation for Lesbian, Gay, Bisexual, Transgender, Queer and Intersex Rights.

RFSL Newcomers: RFSL's national network for and of asylum seekers, newly-arrived and undocumented LGBTIQ people in Sweden. The network offers social activities as well as support and has ten local groups across Sweden.

Newcomers youth: Newcomers Youth is a project within RFSL Youth (RFSL Ungdom) aimed at young newly-arrived LGBTIQ people and young LGBTIQ people between the ages of 15 and 30 who are going to apply or have applied for asylum. Newcomers Youth regularly organises various activities. It offers legal advice, secure meeting-places and creative workshops, among other things, and can be found in several places in Sweden.

→ **For further information** about public counsels see page 42.

🔗 **Contact** RFSL's asylum rights lawyer:
rfsl.se/verksamhet/asyl-och-migration/raadgivning

🔗 **Contact** RFSL Newcomers:
rfsl.se/verksamhet/asyl-och-migration

🔗 **Newcomers youth** newcomersyouth.se

🔗 **Here are some** web sites that may be useful:
ilga.org and outrightinternational.org



Sweden, 2022.
Photo Linda Matsson-Kledzik

Persecution because of religion

If you risk persecution because of abandoning a religion, you may be entitled to protection, whether you have adopted a different faith or become an atheist, that is, you do not believe in any god. Even if you did not practise the dominant religion in your country of origin while you were still there, this may be grounds for asylum. Persecution because of religious beliefs is one of the grounds for asylum status specified in the law. However, it may be difficult for you to prove that you specifically are at risk.

Leaving a religion is also known as *apostasy*. In many countries it is the apostasy itself, becoming a “defector”, which leads to persecution from the state, religious leaders or the people around you. On the other hand, congregations with a different faith that have been in the country for a long time may sometimes be accepted. If it is the apostasy that arouses anger, it does not matter whether you have converted to a different religion or become an atheist.

Do not be afraid to put forward your grounds

Sweden enjoys freedom of religion. People can be harassed for religious reasons, and be subject to prejudice or discrimination, depending on how they manifest their faith. However, if you have fled persecution because of your faith or atheism, you will not be punished for this in Sweden. You will not be punished for renouncing a religion either. On the contrary, it may be grounds for asylum if you still risk persecution and cannot obtain protection in your country of origin.

...but be prepared for difficulties

Even though persecution because of religious beliefs constitutes grounds for asylum, these applications are often rejected.

In order to convince the Migration Agency or the court that you are genuinely at risk of persecution, you need to demonstrate several things.

- Demonstrate that people are persecuted because of religion in the country to which you risk being deported.
- Demonstrate that you specifically will be noticed if you are deported.
- Demonstrate that you cannot obtain protection from the authorities or in a different part of the country.
- Demonstrate that your conviction is genuine – that is, that you could not easily renounce it in order to avoid persecution.

Contribute knowledge about the situation in your country

The legal situation in your country of origin is an important aspect. If *converting* can lead to the death penalty, this should decide your case. However, you may need to demonstrate that these laws are applied in practice. The Migration Agency should have that type of country of origin information in its database. However, do try to contribute your own information. Guidelines from the European Union Agency for Asylum EUAA are especially important, but you can also use information from UNHCR, reports from various organisations or the media.

Even if your family and neighbours constitute the biggest threat, this may be described in the country of origin information. Any persecution to which you have already been subjected constitutes evidence. If anything that has happened to you has been described in newspaper articles, or if you have been subject to threats that you have kept, this can substantiate your oral testimony. Give the information to your public counsel or representative.

Demonstrate that you will be noticed

The authorities in the country to which you are to be deported may be known for checking people who have sought asylum in other countries. You can search for this type of information in the country of origin information – but not for every country. Another risk factor is if information about you has been published in the media, and may have reached the authorities or your family. The information does not even need to be true. If you risk persecution for a faith that has been attributed to you, that is, what the people around you believe is your faith, this may also constitute grounds for asylum.

If your beliefs are genuine, you are entitled to them. According to the UNHCR's guidelines and international legal cases you should not have to conceal genuine beliefs in order to avoid persecution. For example, if you have been evangelising, you should not have to stop doing so. You should not need to feel forced to participate in rituals that form part of a religion to which you do not belong for the sake of your own safety. However, your application may be denied if your conversion is not considered to be genuine – then you are considered to be able to keep it concealed, unless it has already become known in your country of origin.

Explain why you need protection in Sweden

The Migration Agency may consider that you could live in a different part of the country to which you are to be deported, or that the authorities there could protect you. If you have already been subject to persecution and tried to obtain protection, it is a good idea to demonstrate this, at least by talking about it. The chances of protection within the country may also be mentioned in the country of origin information.

Demonstrate that your beliefs are genuine

Demonstrating that you have embraced a certain religion in depth, or are an atheist, is the foundation for being granted asylum, if the country of origin information states that this would lead to persecution. In most cases where the Migration Agency and the court make a negative decision, it comes down to credibility. Appreciating the sense of community in a religious congregation, finding it beneficial and participating in all its activities will not be enough. During the asylum investigation you may be asked about fundamental aspects and details of the religious doctrine. This might include religious observances and why they are celebrated, and the meaning of religious texts, symbols and rituals. However, even greater weight is placed on you being able to explain what your current beliefs mean to you, how you arrived at them and how they have changed your way of life.

As a convert, you may also be urged to explain which differences you see between your previous faith and your new one. Whether you are a convert or an atheist, you need to be able to explain which aspects of your previous faith you now reject. If you started to live according to your current beliefs while you were still in your country of origin, this is important. It is a good idea to include certificates from priests or others in your current congregation as evidence, especially certificates of baptism after completing classes. However, the crucial factor is demonstrating your own understanding and conviction.

🔗 *The Migration Agency's* guidelines for assessing conversion and atheism can be found in a legal position that, at the time of writing, has the number SR/027/2021.
Search for current guidelines in the Migration Agency's database lifos.migrationsverket.se

🔗 *The Christian Council of Sweden* (Sveriges kristna råd) has published guidelines for certificates of baptism,
www.skr.org/vart-arbete/migration-och-integration/vagledning-for-intyg-angaende-konversion

Reflect on your development and its consequences

It is likely that you will not only be asked about your beliefs, but also about your doubts. Some decision makers do not consider it credible to leave a religion without having doubts along the way. You may be asked for your thoughts about the consequences for your family, and what you think about what would happen if you returned to your country of origin. Therefore, it is a good idea to think through these things yourself. What made you begin to question the beliefs of the people around you, was it an inner struggle for you? Which risks did you see for yourself and your family? What will you do in your country of origin? Your personal religious experiences may be difficult to describe, but if you have any, of course they are important.


Put forward your grounds no matter when they arose

Of course, if you knew when you fled that you were at risk of persecution because of your religious beliefs or atheism, you should put this forward right from the beginning with your public counsel and in your asylum interview. However, if your convictions arose or have grown stronger after you came to Sweden, you can always put them forward as grounds for asylum in an appeal or as a new circumstance in an application for impediments to enforcement to be recognised. It can be turned against you if you are suddenly baptised or begin to act like an atheist immediately after a final negative decision.

It is part of the assessment of grounds that arise in the country of refuge (*sur place-grounds*) for the authorities to question your credibility especially closely, especially if your grounds arise after a negative decision. However, only you can judge when you felt that your convictions had become so strong that they would make it dangerous to return. This has also been established by the Migration Court of Appeal in a ruling from 2019. One aspect of this is that if you describe your interest in a new religion or atheism before it has become a strong conviction, you risk it being dismissed later on as no longer being a new circumstance.

Preparing for being interviewed

One piece of advice is to reflect on your convictions and how you arrived at them. Think through your emotions and thoughts during different periods of your life, and how you wish to live and behave. If you are putting forward your convictions as an impediment to enforcement, with the help of your congregation or other advisors, try to find a public counsel/legal representative with experience of religious issues as well as asylum rights to support you. If you are not under an immediate threat of deportation that means that you have to act, you can wait to claim impediments to enforcement until you feel completely secure in your convictions and you have the legal support you need.

 **The Christian Council of Sweden** (Sveriges kristna råd) also has general guidelines for preparing for interviews at www.skr.org/vart-arbete/migration-och-integration/att-tankapa-nar-du-vill-hjalpa-en-konvertit-att-forbereda-sig-for-intervju-hos-migrationsverket-eller-migrationsdomstolen

Torture and sexual assault

Carrying out a deportation that leads to the person being at risk of torture is prohibited. A brief definition of torture would be physical, psychological or sexual violence carried out by a representative of the state.

If there is no central government, torture can be inflicted by another party that controls an area and acts as an authority. However, serious abuse from your partner or from a criminal gang on the street is not considered to be torture.

Mention everything you have experienced that was degrading

Amnesty and other human rights organisations 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.

If the state is responsible, being forced to witness other people being subjected to abuse can also be regarded as torture. Several international conventions as well as Swedish law prohibit carrying out a deportation to a country where the person being deported is at risk of *torture or inhuman or degrading treatment or punishment*. You may therefore be entitled to protection even if the treatment to which you risk being subjected is not defined as torture. It is important to mention everything that you have experienced as degrading or harmful to your physical and psychological well-being.

If you have been subjected to torture, aggravated assault, rape or other forms of abuse, you should tell this to your public counsel as soon as possible, or to someone else whom you trust and who can then contact your public counsel. If it feels easier, you can write down what you have been through in your own language and then give the written account to your public counsel or to the Migration Agency. A detailed account increases the chances of being seen as credible.

Get the physical injuries documented

In order to substantiate your arguments, contact a physician as soon as possible so that your injuries can be documented. Take the documentation to the Migration Agency and request that the Migration Agency commissions and pays for an expert investigation, if they think that an examination like this is important in order to assess your injuries and 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 evidence of your injuries even if the scars begin to fade.

Get the psychological harm documented

Just as it is important to document any physical injuries and scars because of torture, it is equally important to document the emotional and psychological harm that you may have incurred. Therefore, you should obtain a psychiatric statement that describes how you have reacted mentally to what you have been subjected to. It can also explain why you have not been able to account for certain events earlier. This statement 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/them 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 lead to many 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 recall exactly parts or entire episodes of what happened to you in your country of origin or where the abuse took place. 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. Emotions like this 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 to fear telling others about their thoughts and nightmares. However, 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 see a psychiatrist, especially as asylum seekers are only granted emergency health care or health care that cannot wait. It is important to continue to try to obtain different types of treatment. However, even if a psychologist or therapist is the person most initiated in your trauma, you may need a statement from a physician (psychiatrist), as the Migration Agency does not attach as much value to opinions by other medical professionals.

🔗 *Health care providers within Region Skåne* have produced a template for a first certificate of injuries resulting from torture: vardgivare.skane.se/kompetens-utveckling/sakkunnig-grupper/kunskapscentrum-migration-och-halsa/tortyrskador--omhandertagande-utredning-och-behandling/#212215

🔗 *Use the Migration Agency's forms* for medical certificates to substantiate your state of health, search for *Utlåtande från läkare* on the page for forms: migrationsverket.se/Kontakta-oss/Blanketter.html

🔗 *See an example* from Region Skåne of the support the health services can offer at 1177.se/Skane/liv--halsa/vald-overgrepp-och-sexuella-trakasserier/stod-och-var-d-efter-tortyr

The Migration Agency's responsibility

It is difficult for an asylum seeker to pay for an investigation by someone who is an expert in assessing injuries resulting from torture. However, according to the European Court, the Migration Court of Appeal and the Migration Agency's own guidelines, the Migration Agency is required to arrange for an investigation like this, if it has been concluded that the asylum seeker may have been subjected to torture. If you cannot arrange anything better than a certificate from an ordinary physician or psychologist, you should therefore not be dismissed with the argument that the certificate was not written by an expert. If your information is not sufficient, the Migration Agency should arrange an expert investigation instead.

The Swedish branch of Amnesty International has a particular fund that can sometimes help to commission and finance investigations into torture.

🔗 *The Amnesty fund's* web address is amnesty.se/om-amnesty/amnestyfonden/stod-till-flyktingar-i-sverige

Seek help from centres for refugees who have been subjected to torture

If you are tormented by symptoms that seem to be connected to events that happened before you fled, help is available. There are psychiatrists, physiotherapists and counsellors who can help. Sometimes it can be harmful to start a course of treatment that cannot be concluded, so whether you receive help or not may depend on where you are in the asylum procedure.

🔗 *Addresses to health care providers* can be found at farr.se/adresser

Children's grounds

In Sweden you are a child until the age of 18. However, if you turn 18 before you receive a decision about a residence permit, you will be treated as an adult by the migration authorities. Thus, when the Migration Agency or a court decides whether you are entitled to asylum, it is your age at the time of the decision that determines whether you are treated as an adult or a child, 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 particular consideration with regard to the best interest of the child and the child's development and health. The Convention on the Rights of the Child has been incorporated into Swedish legislation. The Aliens Act also contains a *key section* 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 Convention on the Rights of the Child states that the best interests of the child should be prioritised – be regarded as of the utmost importance. This is a stronger wording than in the Aliens Act. However, the Migration Agency and the migration courts still interpret the convention to mean that the best interests of the child should be weighed against other interests – such as Sweden's interest in regulated immigration. What you can demand based on the Convention on the Rights of the Child is for the child's best interests always to be examined in any decisions that concern children. The best interests of the child should not just be mentioned in the decision. It should also be clear in what way the best interests of the child have been considered. If the decision is not in the best interests of the child, there should be an explanation for why the decision-maker judged that other interests were more important.

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, as it can be difficult for a child to speak on command or in a place that feels intimidating. The authorities should take into consideration that the child will only disclose as much as his or her maturity and age will allow. The parents decide whether or not their child should be interviewed.

Children may have their own grounds for asylum

Swedish authorities usually emphasise the child's rights to its parents, which means that if the parents' grounds for asylum are found to be insufficient it is usually considered best for the child to accompany them back to their country of origin. Even if it might be in the best interests of the child to stay in Sweden with the parents, this is seldom sufficient.

It is important to remember that children can also have grounds for asylum. It is common for the Migration Agency's investigator and even the public counsel not to consider this possibility. Even if they do remember that there may be particularly distressing circumstances for children, such as being well-adapted to life in Sweden, being ill and needing medical treatment, or similar circumstances, children's experiences from their countries of origin and fear of returning 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 the child's circumstances are brought to light. If your child has been traumatised, ignoring it may not help. Therefore, try to think about 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 words to describe what has happened.

A traumatised child may need to see a psychotherapist or a paediatrician who can help the child to process what has happened. These professionals can also issue certificates explaining to the authorities what the child seems to have experienced and what kind of treatment is needed. Ask for help at Child and adolescent psychiatry (BUP).

As with adults, it is important to account for everything that might happen to your children if you are sent back to your country of origin. Are your children under threat because of your situation? Are your children at risk of reprisals, not being able to go to school, being taken into custody or being separated from you in some other way? Are your children at risk of circumcision or forced marriage? If your children have been harmed physically or psychologically, will they have any chance of being treated and allowed to develop in your country of origin?

Unaccompanied minors

Children who have come to Sweden without their parents or other guardians are usually called unaccompanied minors. Each of these children is assigned an *appointed* (independent) *guardian* (god man), who is to take responsibility for the child and take care of his or her affairs in place of a parent.

It is the Migration Agency or the social services in the municipality where the child lives who apply to the chief guardian to appoint an appointed (independent) guardian. If the child is granted a residence permit, a specially appointed custodial guardian is appointed instead.

As for other asylum seekers, it is important for unaccompanied minors that all their grounds for asylum are fully brought to light in the investigation. As children may not know what is required and may not meet their public counsel for very long, other adults may need to assist. Children may be threatened because of their parents' position, because of refusal to take up arms or to join a militia, because a hostile group is systematically killing or kidnapping young people – or, just as for adults, because of their own activity or belonging to a certain group. Children may also flee from trafficking.

For unaccompanied minors, on grounds for asylum and age

The asylum investigations of unaccompanied minors often focus chiefly on finding out where their parents are, so that the children can be reunited with them. If you are under 18 and unable to return to your parents' country of origin, you, your appointed (independent) guardian (god man) or your public counsel must work together to explain this to the Migration Agency's investigator.

Before your asylum interview, it is a good idea to think through what happened to you, in which order things happened and in which year. These can be things that concern yourself, your family, school, or important events in the world. Creating a timeline like this may help you to remember better and to explain why your parents or you yourself had to flee. If you are prepared, there is less risk of you becoming very stressed at the interview.

Having a timeline will also help you to explain how you know your age. If the Migration Agency's case worker suspects that you are older than you have said, your age may be changed. This may happen because you were registered as being older in another EU country or simply because you cannot prove that you are under 18. It is good to have your own documents that demonstrate your age. Your teacher, your social worker or the adults you meet at your accommodation might be able to write to the Migration Agency that you do not seem to be an adult. However, this may not help.

If the case worker does not consider it very clear that you are much older than 18, you should be offered an X-ray examination of your teeth and knees before your age is adjusted. The examination is voluntary, but even if you do not undergo it, your age can still be changed.

Your date of birth can be changed in your documents as soon as the investigation into your age has been completed. A decision like this on changing your age can be appealed. This means that you – perhaps with the assistance of your appointed (independent) guardian (god man) or your lawyer – try to persuade a court to change the decision.

If you cannot prove during your asylum investigation that you have grounds for asylum, that is, you risk persecution, being injured in a war, etcetera, you can receive a deportation order even if you are still considered to be under 18. However, if this happens you may not be deported from Sweden without having relatives or at least an orphanage to take responsibility for you. This can mean that your deportation is postponed until you are 18, or that you are granted temporary residence permits that are only valid until you turn 18 and can be deported. An exception is if you have already received an asylum decision in another EU country. Then you can be sent to that country on your own before you turn 18.

If the Migration Agency decides that you are over 18, you will be treated as an adult by the authorities from then on. You will not be entitled to an appointed (independent) guardian (god man) or accommodation for young people. If you are considered to be over 18, you can be deported even if no close relatives can be found.

If you receive a deportation order, you are entitled to appeal the decision, just like an adult.


If you have to appeal a deportation order, the most important thing to put forward is if someone is threatening you or if there is something else you are afraid of in your country of origin, something that the Migration Agency did not understand. Then you should be allowed to stay for that reason and not just because you do not have any close relatives there. If you need protection, you are entitled to stay even if you are over 18.

→ *For further information* about deportation orders that cannot be carried out see page 78.

If you have been wrongly treated


The Parliamentary ombudsman (JO)

You can complain to the Parliamentary ombudsman if you think that you or someone else has been wrongly treated in the handling of a case. However, JO can never change a ruling or a decision. JO's role is to monitor whether authorities and officials comply with the law and fulfil their obligations.

 *Here is the form* for filing complaints to JO
jo.se/sv/JO-anmalan/

The Equality ombudsman (DO)

The Equality ombudsman works for the equal rights and opportunities of all and against all forms of negative discrimination – such as discrimination on the grounds of sex, transgender identity or expression, ethnicity, religion or other belief, disability, sexual orientation or age.

 *Information on* how to report discrimination can be found at
do.se/diskriminering/anmal-diskriminering



Sandton, Johannesburg, South Africa, 2022
Mural by Faith47, 2017
Photo Chico Mankind



6

APPENDICES

EU countries

Austria	Belgium	Bulgaria
Croatia	Cyprus	The Czech Republic
Denmark	Estonia	Finland
France	Germany	Greece
Hungary	Ireland	Italy
Latvia	Lithuania	Luxembourg
Malta	Poland	Portugal
Romania	Slovakia	Slovenia
Spain	Sweden	The Netherlands

Dublin countries

The EU countries, and Iceland, Norway, Switzerland.

EEA countries

The EU countries, and Iceland, Liechtenstein, Norway.

Schengen countries

The EU countries *except* Bulgaria, Croatia, Cyprus, Ireland, Romania
but including Iceland, Liechtenstein, Norway, Switzerland

Laws, rulings and guidelines

The descriptions in the factual sections of this document are based on laws, ordinances, legal precedents and the Migration Agency's guidelines (legal positions) at the beginning of 2022.

Laws

Laws are proposed by the Government (cabinet) and passed by the Riksdag (parliament).

- The Aliens Act (2005:716)
- The Act concerning Reception of People Seeking Asylum and Others (1994:137)
- The Health and Medical Care for Asylum Seekers and Others Act (2008:344)
- The Act on Guardians for Unaccompanied Minors (2005:429)
- The Act concerning Residence Permits for Students at Upper Secondary Level (2017:353)
- The Population Registration Act (1991:481)
- The Act on Establishment Measures for Certain Newly Arrived Immigrants (2010:197)
- The Swedish Citizenship Act (2001:82)
- The Social Services Act (2001:453)


- The Act concerning Healthcare for Certain Aliens Residing in Sweden Without the Necessary Permission (2013:407)
- The Public Access to Information and Secrecy Act (2009:400)
- The Act concerning the United Nations Convention on the Rights of the Child (2018:1197)
- The Act concerning Special Controls in Respect of Aliens (1991:572)

Ordinances

Ordinances can be passed by the Government (cabinet). They often contain rules on how to apply the laws. Many laws have a corresponding ordinance. You can search for them at the same website as the laws.

The following are examples.


- The Aliens Ordinance (2006:97)
- The Ordinance Concerning Reception of People Seeking Asylum and Others (1994:361)
- The Ordinance concerning Health and Medical Care for Asylum Seekers and Others (2008:347)

 *You can search* for laws and ordinances in the Swedish Code of Statutes (SFS)
www.riksdagen.se/sv/dokument-lagar/?dokstat=gallande+sfs

EU regulations and directives

EU rules are passed jointly by the EU's decision-making bodies. EU regulations are immediately enforceable for EU member states. The states should transpose EU directives into national law.


- The Dublin Regulation: Regulation (EU) no. 604/2013 on the criteria and mechanisms to decide which member state is responsible for the assessment of an application for international protection
- The Temporary Protection Directive: Council Directive 2001/55/EC on minimum norms for providing temporary protection when there is a “mass influx” of displaced people


 *Find these and other EU directives* concerning asylum seekers
ec.europa.eu/home-affairs/policies/migration-and-asylum/common-european-asylum-system_en


Rulings and guidelines

You can search for indicative rulings from the Migration Court of Appeal at Sweden's courts' website or in the Migration Agency's database Lifos.

The Migration Agency's legal positions can be found in Lifos. For example, you can search by country or keyword. The database also includes country of origin information as well as reports and rulings from international bodies.

 *You can search* the Migration Court of Appeal's indicative rulings here
www.domstol.se/migrationsoverdomstolen/avgoranden

 *You can search* Swedish and international court cases in Lifos
lifos.migrationsverket.se/rattsfallssamling.html

 *You can search* the Migration Agency's legal positions in Lifos
lifos.migrationsverket.se/sokning/detaljerad-sokning.html

Power of attorney

Hereby,

(the name of the representative)

(the personal identity number of the representative and contact details, if applicable)

is, on one or several occasions, authorised to represent me in matters pertaining to work and residency permits, refugee status and travel documents, arrest and detention, enforcement, as well as other matters connected with residence permits.

The power of attorney includes the right, in the above-mentioned matters and whatever pertains to them, to act on my behalf in all matters 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 hearings, 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 -----

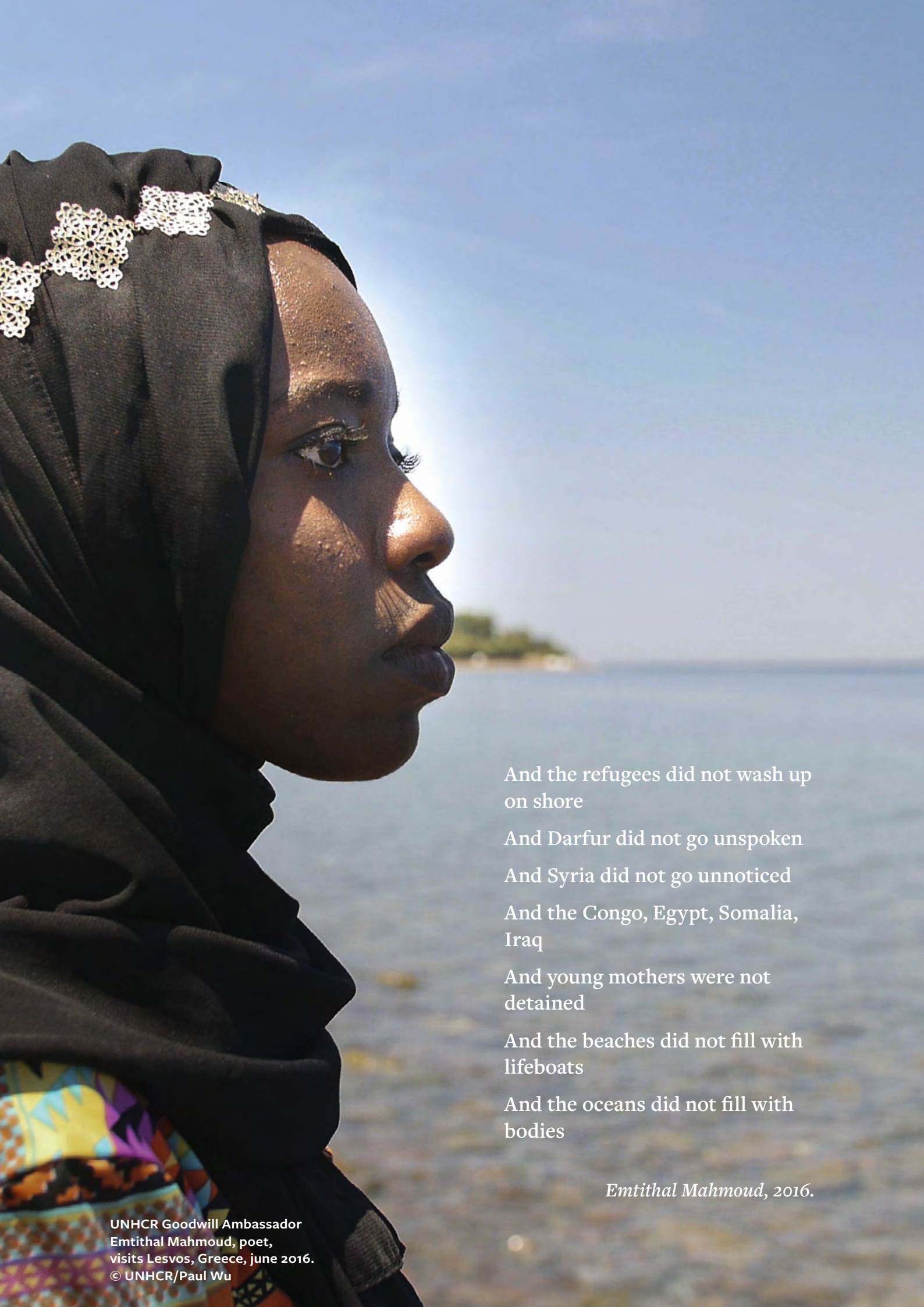
Name (in capitals) -----

Date of birth -----

(Use the date of birth registered by the Swedish authorities)

LMA number or case number -----

Date and place of signature -----



And the refugees did not wash up
on shore

And Darfur did not go unspoken

And Syria did not go unnoticed

And the Congo, Egypt, Somalia,
Iraq

And young mothers were not
detained

And the beaches did not fill with
lifeboats

And the oceans did not fill with
bodies

Emtithal Mahmoud, 2016.



Become a member of FARR

FARR is the network for individuals and groups who wish to enhance the right to asylum and to work towards a humane refugee policy based on solidarity.

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

farr.se/bli-medlem-prenumerera