Access to procedures and non-refoulement - Sweden

Overview

Content updated and validated on: 27/08/2025

Relevant EU legislation

Sweden is bound by the recast Asylum Procedures Directive and the new Asylum Procedure Regulation. Provisions haven been transposed in the Aliens Regulation (SFS 2006:97 with further amendments) | Utlänningsförordning (2006:97), (23 February 2006) and Aliens Act (SFS 2005:716 with further amendments) | Utlänningslag (2005:716), (29 September 2005).

National legislation

Aliens Regulation (SFS 2006:97 with further amendments) | Utlänningsförordning (2006:97), (23 February 2006)

Aliens Act (SFS 2005:716 with further amendments) | Utlänningslag (2005:716), (29 September 2005)

Competent authority and stakeholders

Area	Competent national authority	Assistance to competent authority (if applicable)
Screening at the external border	Screening is currently not applicable in the asylum process	Not applicable
Biometric data	Swedish Migration Agency | Migrationsverket	Not applicable

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Area	Competent national authority	Assistance to competent authority (if applicable)
Making an application	**At the border** Police | Polisen Coast Guard | Kustbevakningen Swedish Migration Agency | Migrationsverket Swedish Customs | Tullverket (possibly) Security Service | Säkerhetspolisen **On the territory** Swedish Migration Agency | Migrationsverket Municipalities- especially the social administration **In detention** Swedish Migration Agency | Migrationsverket	Not applicable
Registering an application	Swedish Migration Agency | Migrationsverket	Not applicable
Lodging an application	Swedish Migration Agency | Migrationsverket *Lodging an application overlaps with registration.*	Not applicable
Information provision	Swedish Migration Agency | Migrationsverket	Not applicable

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Access to the territory

Official external border-crossing points

Sweden has 30 external air border-crossing points.

Sweden has 50 external sea border-crossing points.

Emergency measures in cases of mass arrivals

Chapter 21 of the Aliens Act (SFS 2005:716 with further amendments) | Utlänningslag (2005:716) provides for the application of emergency measures by authorities in case of mass arrivals.

The law allows the government to issue temporary residence permits to foreign nationals covered by a decision on temporary protection and to extend temporary protection of additional categories of displaced persons beyond those covered by the Council Directive 2001/55/EC.

The Swedish Migration Agency, which is responsible for implementing the measures related to mass arrivals, is the competent authority to decide in these cases.

Protection from refoulement

The principle of protection from *refoulement* is enshrined in Chapter 12 of the Aliens Act (SFS 2005:716 with further amendments) | Utlänningslag (2005:716), Sections 1 to 3.

Impediments to the enforcement of a refusal of entry and expulsion

Section 1: The refusal of entry and expulsion of a foreigner may never be enforced to a country where there is fair reason to assume that:

- the foreigner would be in danger of suffering the death penalty or being subjected to corporal punishment, torture or other inhuman or degrading treatment or punishment; or

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- the foreigner is not protected in the country from being sent on to a country in which the foreigner would be in such danger.

Section 2: The refusal of entry and expulsion of a foreigner may not be enforced to a country:

- if the foreigner risks being subjected to persecution in that country; or
- if the foreigner is not protected in the country from being sent on to a country in which the foreigner would be at such risk.

A foreigner may, however, be sent to such a country if it is not possible to enforce the refusal of entry or expulsion to any other country and the foreigner has shown by committing an exceptionally gross offence that public order and security would be seriously endangered by allowing him/her to remain in Sweden. This is, however, not applicable if the persecution threatening the foreigner in the other country entails danger for the life of the foreigner or is otherwise of a particularly severe nature.

A foreigner may also be sent to such a country if the foreigner has conducted activities that have endangered national security and there is reason to assume that the foreigner would continue to conduct these activities in the country, and it is not possible to send the foreigner to any other country.

Section 3: The refusal of entry and expulsion of a foreigner referred to in Chapter 4, Section 2, first paragraph, points 2 and 3 may not be enforced to the foreigner's country of origin or to a country where he/she risks being sent on to the country of origin unless there are exceptional grounds for this.

Countries to which a refusal of entry or expulsion may be enforced

Exception. A third-country national can be sent back to a country where there exists a risk of persecution when he/she has committed a particularly serious crime whereby showing that it would be a danger to public order or security to let him/her remain in Sweden and there is no possibility of sending him/her to another safe country.

In case of a risk for serious harm by reasons of indiscriminate violence in armed conflicts, there must be particular reasons against sending a person to that country.

A minor shall not be sent to a country if the responsible authority has not ensured that the minor will be received by a parent, a guardian or an authority

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which provides care for minors.

People who arrive at Sweden's land borders can apply for asylum at border-crossing points or the airports. An asylum seeker can either approach border police, customs or immigration authorities at these points to formally express the intention to seek asylum. If someone enters the country without valid documentation, they are still allowed to apply for asylum. Once an asylum claim is made at the border, it is registered by the Swedish Migration Agency *(Migrationsverket)*. The individual is interviewed to assess the reasons for their asylum request and provided information about the asylum procedure. At airports, border control officers can identify individuals wishing to apply for asylum and inform them of the process.

Protection from *refoulement* at external air borders

The border procedure is not applicable in Sweden. If an application for international protection is submitted at the border, the applicant is taken to the closest office of the Swedish Migration Agency to register the application. Once there, authorities also decide where the applicant will be accommodated.

All applications for asylum are then examined by the Swedish Migration Agency and a decision is made by the Agency to try the application on the merits or not.

Protection from *refoulement* at external land borders

Sweden does not have any external land borders.

Protection from *refoulement* at external sea borders

The border procedure is not applicable in Sweden. If an application for international protection is submitted at the border, the applicant is taken to the closest office of the Swedish Migration Agency to register the application. Once there, authorities also decide where the applicant will be accommodated.

All applications for asylum are then examined by the Swedish Migration Agency and a decision is made by the Agency to try the application on the merits or not.

Protection from *refoulement* in case of emergency measures related to mass arrivals

Chapter 21 of the Aliens Act (SFS 2005:716 with further amendments) | Utlänningslag (2005:716) provides for the application of emergency measures by the authorities in case of mass arrivals.

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Border procedure

There is no border procedure in Sweden.

If an application for international protection is submitted at the border, the applicant is taken to the closest office of the Swedish Migration Agency to register the application. Once there, authorities also decide where the applicant will be accommodated.

Procedural aspects

Lodging an application overlaps with registration.

Making an application

Responsible authority and place

Applications for international protection can be made (in the sense of initial expression of the wish to receive international protection) at border posts, airports or seaports (to police, customs, coast guard officers) and within the territory (to one of the units in the three regions of the Swedish Migration Agency: West (Gothenburg), South (Malmö) or North (Stockholm), or police, civil police, prison or social service officers/staff). Applications by unaccompanied minors can be made in a few additional locations.

However, if the foreigner expresses the initial wish to receive international protection to police, civil police, customs, coast guard, prison or social service officers/staff, the information about the intent is transferred to the Swedish Migration Agency which is the only authority competent to register the application.

Possibility to apply from outside the territory

Applications cannot be made to a Swedish embassy abroad. Sweden does not have a scheme for issuing visas for humanitarian reasons.

Formal requirements for making an application

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The initial expression of the wish to receive international protection (making the application) is the start of the procedure for granting international protection.

There are no specific time limits within which a claim must be made. However, if a late claim is made, the applicant must explain the delay during the asylum interview and risks having his/her credibility called into question for not having sought protection earlier.

Making an application while being in detention for illegal entry/stay may have consequences on an applicant's detention depending on the circumstances of the application.

Registering an application

Responsible authority and place

The Swedish Migration Agency is responsible for registering an application for international protection. If the applicant is in detention or in prison, a handling officer from the SMA will visit the premises to register the application.

There is no specific time limits laid in law, but in practice:

- if the application is made to the authority competent to register it (SMA): registration must be done either on the same or the next day.
- if the application is made to an authority other than the authority competent to register it (e.g. when in detention): registration must be done in 1-3 days.

Practical steps to register the application

The applicant must submit a passport or other identity documents from the country of origin. The name, date of birth and the gender specified in the documents are registered. If the applicant wants to use a different gender or name, he/she can mention it to the case officer. The applicant can also request an interpreter, counsel or case officer of a particular gender.

Fingerprints are taken for all applicants over 14 years old to identify those who may have applied for asylum in other EU countries. The new Eurodac Regulation (2024/1358), Article 15 obliges Member States to take biometric data of every applicant for international protection who is at least 6 years of age. The applicant is also photographed. The photo will be used for the asylum seekers card that is

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issued after the application is lodged.

An initial interview takes place with a case officer and the applicant will explain who he/she is and why they left their country of origin. At this stage, the applicant can inform the Swedish Migration Agency about any special needs (e.g. disability). During this conversation, the case officer provides information on the asylum procedure, the next steps and what the applicant needs to do. Information is provided about practical issues, such as the right to accommodation, financial aid, care and schooling for children.

The applicant is summoned to an asylum interview at this initial interview, but if not, information on the appointment is sent later by post.

Data collection

All applications for international protection are registered in an IT system, Skapa, which is managed by the Swedish Migration Agency. It keeps track of all decisions (both first and second instance), documents issued by the Agency, communication with applicants and reception services offered to applicants. Skapa is connected to a central database for foreigners called 'Wilma' (Web-based Information Linking Migration Authorities), which gathers all data on proceedings linked to foreigners, including visas, invitations, residence permits, international protection and expulsions.

Since February 2018, the Swedish Migration Agency has been handling all new applications for international protection digitally.

Documentation

The lodging procedure overlaps with the registration of the application for international protection. The applicant is issued a LMA card *(Lagen om mottagande av asylsökande*, which translates to "the Act on Reception of Asylum Seekers") by the Swedish Migration Agency, which certifies that the holder is an applicant. It is not an identity card, but it can be shown at pharmacies or health and medical care institutions to prove that the holder is entitled to certain benefits as an applicant, such as reduced patient's fee and reduced cost for prescription medicine.

Applicants have a LMA card for the time they are asylum seekers, however the validity of the card must be extended regularly. The validity is updated digitally every 3 months at a minimum or at any time the applicant is in contact with the reception department. The card should be returned when the applicant is granted

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a residence permit or leaves Sweden.

The card contains the applicant's photo and case number. It includes a QR code that allows to check if the card is valid and if the person has the right to work (AT-UND status). No other personal information is disclosed when reading the QR code.

Lodging an application

Responsible authority and place

The lodging procedure overlaps with the registration of the application for international protection and it is done by the Swedish Migration Agency.

Formal requirements to lodge an application for international protection

No set form is used for lodging the application; the applicant does so by responding to questions by a case officer. Depending on the case (e.g. location in which the application is made and whether there are booths for applicants to fill out forms while waiting), the applicant is sometimes asked to complete a personal information form, which is translated into several languages. If required, an interpreter is summoned. All other information on the application is filled in by the officer based on an initial interview with the applicant.

An application for international protection is lodged in person (it is not possible to do so by proxy) unless there are specific reasons which hinder the presence of the person, such as hospitalisation.

All adults lodge an individual application. Separate applications are also registered for children. A child’s application for international protection must always be lodged by a person with legal capacity to represent the child. Normally, the presence of the child is required while the application is being lodged.

Various practical arrangements are in place to assist the person during the process of lodging the application, including written information on rights and obligations as an applicant, accommodation, daily allowance, how to reach health and medical care, applicable asylum legislation and transport to the reception facilities (if required).

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The application process includes additional activities (establishing the identity of an applicant, taking photographs and fingerprinting (Aliens Act, Chapter 9, Section 8). No mandatory medical examination is carried out when an application is lodged, but a vulnerability assessment is made.

The national automated fingerprint identification system (AFIS) is under the responsibility of the police and contains fingerprints from criminal and asylum applicants. Fingerprints taken during the application process are compared with this database.

Documentation

As indicated under 'registration', the applicant receives the LMA card *(see Registering an application)*.

Information provision

The information provided to asylum applicants after lodging their claim is the same when they register their application. It covers all the necessary steps, rights, obligations and possible outcomes of the asylum procedure *(see Registering an application)*.

Passport and other documents

Obligation to surrender original documents

Requirement to submit original documents

There is no legal requirement for applicants to surrender their national passport to the authorities. However, according to the Aliens Act, applicants are expected to present relevant documents to clarify their identity (primarily name, date of birth and nationality), as well as all relevant evidence to support the content of the application. It is expected that original identity documents are submitted for the SMA to check their authenticity. Applicants can still provide their identity documents during the personal interview or by post as long as the application is pending.

Consequence of a refusal to surrender documents

If the identity of the applicant cannot be substantiated and the applicant has the ability to do so by surrendering documents in their possession, thus hindering the

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effective handling of the case, the allowance granted for the asylum seeker may be reduced. A refusal may also indicate to the Agency that the applicant wishes to continue to benefit from the protection of his/her country of origin and this may affect the determination of the need for international protection. If the refusal concerns an individual who received a negative decision on their application, the person may be taken into custody while awaiting a departure.

Return of original documents to the applicant

According to the Aliens Act, Chapter 9(4) and 9(5), if a foreigner applies for a residence permit upon arrival in Sweden or subsequently, the SMA (or the police authority) may retain the passport and other identity documents until the foreigner receives permission to stay in Sweden or leaves the country.

Other documents

The applicant has the right to submit any type of evidence, as the principle of free presentation of evidence applies. The Swedish Migration Agency is obliged to receive any evidence submitted in a case. It is the responsibility of the applicant to submit evidence to support their grounds for protection. Failure to do so may affect the assessment of the protection needs. As a general rule, evidence is returned to the applicant once the case has been finally decided.

Requirement to read digital data

If evidence in a case is submitted in paper format, the document must be scanned and made available in the case management system. If the evidence is submitted to the Swedish Migration Agency in a format other than paper, additional measures may be required during case processing to access the content. Regardless of the format, the content must in some way be integrated into the digital case management system. There are various solutions available to enable access to submitted material that is not in paper format.

Guarantees for applicants

Confidentiality principle

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The case officer, interpreter and public counsel are sworn to secrecy, and thus they cannot share an applicant's statements with anyone who does not have the legal right to know. The case officer informs the applicant about the duty of confidentiality during the interview. This information is also provided separately by the public counsel, if one has been appointed, as well as by the interpreter at each occasion when an interview or conversation is conducted. The interviews conducted during the application and determination procedures are held in a private room where no unauthorised person can hear what is being said. Likewise, no one has access to the information in an applicant’s file, unless they are actively involved in processing the case.

Information provision

At the border or in transit zones, information on the right to make an application is provided orally by border guards if they assess an arrival as someone who may wish to apply for international protection. Foreigners cannot access advice and counselling at the border or in transit zones.

In detention, information is systematically provided to all people upon arrival. They are informed about their rights and obligations by the Swedish Migration Agency staff, as well as by UNHCR and NGOs that have access. All detention centres have computers with Internet access for all detainees.

Information on the asylum procedure and other relevant topics (such as the Dublin procedure, accommodation and detention) is available on the Swedish Migration Agency's web portal (which also contains dedicated material for children, both unaccompanied and in families, explaining the asylum procedure) and in printed form in several different languages at reception centres.

Special efforts have been made to take into account the information needs of illiterate persons by using audio-visual methods.

Written information provided on the Swedish Migration Agency webpage in English: Applying for asylum can be accessed by applicants with vision impairments through the function where text is converted to sound. Under the title ‘Applying for asylum’, there is a button with the image of a speaker and the word ‘Listen’; when clicked, the text on the page will be read aloud.

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Other official sites where information about the asylum procedure is also provided are Jag är asylsökande | Informationsverige.se (in several languages), UNHCR Sweden - Help for refugees and asylum-seekers, Asyl- och flyktingmottagande and integration | SKR.

Information is also provided by NGOs, for example the Swedish Network of Refugee Support Groups (FARR) published the booklet Goda Råd (Good Advice) on its website, the Swedish Refugee Advisory Centre has two hotlines and the Swedish Office of Amnesty International, the Church of Sweden and Charity Sociala Missionen also provide information to applicants.

Links to information provided in the national context:

Authority/agency: Swedish Migration Agency (Migrationsverket) Title: You want to apply for asylum in Sweden Type: Website Hyperlink: https://www.migrationsverket.se/en/you-want-to-apply/asylum.html
Authority/Agency: UNHCR Sweden Title: Help for refugees and asylum-seekers Type: Website Hyperlink: https://help.unhcr.org/sweden/
Authority/Agency: Swedish Network of Refugee Support Groups (FARR) Title: Goda Råd (Good Advice) Type: Website Hyperlink: https://farr.se/goda-rad/

Interpretation

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Interpreters are engaged for each case, regardless of whether the officers or public servants of the relevant service have proficiency in the asylum seeker's language. Interpretation can be provided remotely by phone or using the SMA's video-conference system. The interpreter must have a clean criminal record and should in the majority of cases have an authorisation from the Legal, Financial and Administrative Services Agency *(Kammarkollegiet)* and follow the code of conduct for interpreters. The interview is subjected to the law on secrecy.

Sweden usually uses telephone interpretation at the border or in transit zones, which is primarily due to operational constraints. The use of interpreters by telephone also occurs during the initial interview at the Swedish Migration Agency.

Legal assistance and representation

The Swedish Migration Agency informs applicants about the possibility to be appointed a legal counsel throughout the entire procedure and the applicant has a free choice of counsel.

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