UNHCR
United Nations High Commissioner for Refugees
Haut Commissariat des Nations Unies pour les réfugiés

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Universal Periodic Review: *Fourth Cycle, 49th Session*

SWEDEN

I. BACKGROUND INFORMATION

Sweden ratified the *1951 Convention relating to the Status of Refugees* in 1954 and acceded to its *1967 Protocol* in 1967 (hereinafter jointly referred to as the *1951 Convention*). Furthermore, Sweden ratified the *1954 Convention relating to the Status of Stateless Persons* in 1965 and acceded to the *1961 Convention on the Reduction of Statelessness* (the 1954 Convention and the *1961 Convention*, respectively) in 1969. Sweden is also party to all major human rights treaties.

In the past years, Sweden has introduced a series of restrictive measures in the area of asylum and family reunification, initially in response to the significant increase in the number of asylum-seekers arriving in Sweden in 2015. While the number of asylum-seekers has decreased significantly in recent years, the measures that were intended to be temporary have been permanently incorporated into Swedish asylum policy.

In 2022, the new Swedish Government announced a coalition agreement (the "Tidö Agreement"), which refers to a "paradigm shift" and envisages a series of restrictions in the area of asylum and integration. Protection should be offered on a temporary basis and Sweden should not in any way be more generous in its view on asylum than what follows from obligations under EU law or other legally binding international treaties. Some restrictions have already been implemented, such as the reduction of the resettlement quota and stricter criteria for family reunification. Additionally, the Government has initiated a series of inquiries to investigate the feasibility and lawfulness of the other proposals.

In 2023, Sweden received 12,498 asylum applications (the five main countries of origin were Afghanistan, Iraq, Syria, Uzbekistan and Iran). Out of the number of asylum-seekers, 37 per cent were female and 63 per cent were male. Additionally, due to the war in Ukraine, Sweden received 50,365 applications for temporary protection in accordance with the EU Temporary Protection Directive (TPD) in 2022, and 11,406 in 2023.[1] Furthermore, UNHCR reported 18,698 stateless persons residing in Sweden at the end of 2023.[2]

II. ACHIEVEMENTS AND POSITIVE DEVELOPMENTS

Linked to 3rd cycle UPR recommendation no. 156.295: "Ensure that all asylum-seekers have access to fair and effective asylum procedures."

Sweden initially responded in a swift and protection-oriented way to the unprecedented refugee situation arising as a result of the full-scale invasion of Ukraine. Sweden quickly scaled up its reception capacity and started processing a large number of temporary protection applications upon the activation of the TPD. UNHCR appreciates the predominantly positive response in providing immediate protection to those fleeing the war in Ukraine. However, as the war continues, UNHCR recommends that Sweden ensures that temporary protection holders receive the same rights and entitlements as other recognised refugees. A change in the current policy is envisaged to take effect as of November 2024,

[1] See Swedish Migration Agency, statistics: https://www.migrationsverket.se/Om-Migrationsverket/Statistik.html.
[2] See UNHCR, Refugee Data Finder: https://www.unhcr.org/refugee-statistics/download/?url=LL05na.

which consists of improvements in some areas, but fall short of offering all Ukrainian temporary protection holders the same rights and benefits as other recognised refugees.

III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

Challenges linked to outstanding 3rd cycle UPR recommendations

Issue 1: Family reunification

Linked to 3rd cycle UPR recommendation no. 156.296: "Ensure that asylum seekers and refugees enjoy their human rights, including the right to family reunification."

In Sweden, the right to family reunification for refugees and beneficiaries of subsidiary protection (hereafter, collectively referred to as "beneficiaries of international protection") has become severely restricted in recent years. UNHCR regrets that the family reunification mechanism, as a legal pathway, has been curtailed to such a great extent.[3] UNHCR remains concerned about the maintenance requirement for family reunification. For beneficiaries of subsidiary protection, strict income and accommodation requirements apply. For refugees, the same strict requirements apply if the application for family reunification is not submitted within three months from the date of granting of protection status. UNHCR is concerned that these requirements are impossible for many beneficiaries of international protection to meet and do not sufficiently take into account the particular circumstances of persons who have been forced to flee.

Furthermore, the UN Committee on the Rights of the Child recently urged Sweden to facilitate reunification of children with their families, including by abolishing the maintenance requirement.[4] However, in contrast to this recommendation, the Swedish Government implemented stricter requirements for family reunification in December 2023,[5] and has announced plans for further restrictions.[6]

Recommendations:
UNHCR recommends that the Government of Sweden:

a) Remove legal, practical and financial obstacles to family reunification, including the maintenance requirement, to ensure the earliest possible reunification of families and to protect especially women and children from having to undertake dangerous journeys to reach their loved ones.

Issue 2: Addressing Statelessness

Linked to 3rd cycle UPR recommendation no. 156.298: "Establish a dedicated statelessness determination procedure to identify stateless persons within the territory and facilitate their protection, particularly regarding stateless children."

[3] UNHCR has commented and proposed recommendations on the legislative restrictions for family reunification in Sweden, see for example: UNHCR, *UNHCR Observations on the draft proposal "Certain stricter conditions for family immigration and limited possibilities for residence permit due to humanitarian reasons" [Utkast till lagrådsremiss: Vissa skärpta villkor för anhöriginvandring och begränsade möjligheter till uppehållstillstånd av humanitära skäl]*, 28 March 2023, https://www.refworld.org/legal/natlegcomments/unhcr/2023/en/124241.

[4] UN Committee on the Rights of the Child, *Concluding observations on the combined sixth and seventh periodic reports of Sweden*, 7 March 2023, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2FC%2FSWE%2FCO%2F6-7&Lang=en.

[5] The law amendments are available at: Lag om ändring i utlänningslagen (2005:716) (svenskforfattningssamling.se).

[6] A Government Inquiry has been appointed to review the current framework. The Terms of reference are available at: Skärpta villkor för anhöriginvandring (regeringen.se).

UNHCR appreciates the issuance of recent guidance on statelessness by the Swedish Migration Agency (hereinafter SMA).[7] The definition of a stateless person set out in Article 1(1) of the *1954 Convention*, however, is not incorporated into Swedish legislation. Sweden also lacks a dedicated statelessness determination procedure with the relevant burden and standard of proof that considers the difficulties inherent in proving statelessness. This leads to inconsistent outcomes in registering stateless persons and contributes to the high number of persons, mainly children, being registered as having an "unknown" nationality. Further, statelessness in itself is not considered a legal ground to grant a residence permit and stateless people are unable to enjoy the rights stipulated in the *1954 Convention*.

UNHCR appreciates Sweden's withdrawal of two reservations to the *1954 Convention* in 2019.[8] Sweden, however, maintains reservations to Article 12(1) (personal status), Article 24(3) (social security), and Article 25(2) (administrative assistance) of the *1954 Convention*.

Article 1 of the *1961 Convention* as well as Articles 3 and 7 of the *Convention on the Rights of the Child* aim to secure that no child is born stateless on the territory of a state party. UNHCR regrets the conclusion of the 2021 Government Inquiry that a system of automatic acquisition should not be introduced in Sweden.[9] In UNHCR's view, automatic acquisition is the preferred way of avoiding childhood statelessness.[10]

Recommendations:
UNHCR recommends that the Government of Sweden:

a) Incorporate the definition of a stateless person pursuant to Article 1 of the *1954 Convention* in all relevant legislation to ensure consistent identification, statelessness determination and registration;
b) Establish a dedicated statelessness determination procedure;
c) Review the application of burden and standard of proof, and use the category "unknown" nationality with caution;
d) Withdraw the remaining reservations to the *1954 Convention*;
e) Allow children born stateless in Sweden to acquire nationality automatically, through operation of law, regardless of whether or not they are residing in Sweden legally.

Issue 3: Children in detention

Linked to 3rd cycle UPR recommendation no. 156.287: "Prohibit the detention of children for immigration-related purposes, irrespective of their status or that of their parents, and consider the application of alternative measures to detention."

The Swedish Aliens Act allows for detention of children. Chapter 10 Section 3 of the Act states that a child may not be separated from both its custodians by detaining the child or its custodian, and that a child who does not have a custodian in Sweden may only be detained if there are exceptional grounds. According to Chapter 10 Section 5, a child may not be detained for more than 72 hours or, if there are exceptional grounds, for a further 72 hours.

Evidence shows that detention has a profound and negative impact on children's health and development, regardless of the conditions in which children are held, and even when detained for short periods of time or with their families. Children should not be detained for

[7] The Swedish Migration Agency, *Legal position. Assessment of statelessness as part of a person's identity - RS/003/2023,* 27 March 2023, https://lifos.migrationsverket.se/dokument?documentSummaryId=47299.
[8] See further at https://www.unhcr.org/ibelong/results-of-the-high-level-segment-on-statelessness.
[9] Full report of the Inquiry on Nationality: Ändrade regler i medborgarskapslagen (regeringen.se).
[10] UNHCR, *Observations on the "Final report of the inquiry on language and social studies requirements for Swedish citizenship and other citizenship issues"*, 4 November 2021, https://www.refworld.org/legal/natlegcomments/unhcr/2021/en/123948.

immigration related purposes, irrespective of their legal/migratory status or that of their parents, and detention is never in their best interests.[11]

Recommendations
UNHCR recommends that the Government of Sweden:

a) Amend the Swedish Aliens Act to prohibit the detention of children for immigration related purposes, irrespective of their status or that of their parents, and consider the application of alternative measures to detention.

Issue 4: Quality of asylum in claims based on Sexual Orientation and/or Gender Identity, as well as Religious Conversion

Linked to 3rd cycle UPR recommendation nos. 156.290 and 156.291: "Defend the principle of non-refoulement by taking more effective measures to properly protect the rights of asylum seekers to leave their current religion or to change their religion for another, and to run from the significant risks of persecution in their countries of origin" and **"**Effectively apply the principle of non-refoulement when there is risk to life, liberty or personal integrity of the asylum seeker, especially in cases of children, girls and adolescents, and lesbian, gay, bisexual, transgender and intersex persons."

Sweden has a well-established asylum system. SMA is committed to continuously improve the capacity and quality of the asylum procedures. To that effect, in December 2023, the Swedish Government initiated a review of the asylum process in Sweden with the findings presented in October 2024.[12] The findings point to challenges relating to maintaining consistency in the asylum procedure at first instance which may affect the legal certainty.[13]

Additionally, recent reports have identified challenges in the adjudication of claims based on sexual orientation and/or gender identity, as well as religious conversion. With regard to claims based on religious conversion, UNHCR commissioned a report in 2023, which examined how religion-based asylum claims concerning *sur place* conversion are adjudicated across the appeal levels in Denmark, Norway and Sweden.[14] Findings indicate that the reference to country of origin information as part of the risk assessment is not applied in a systematic manner by individual decision-makers. The UNHCR Guidelines, notes that asylum authorities should always obtain relevant country of origin information.[15]

With regard to claims based on sexual orientation, studies have identified several concerns regarding the credibility assessments. In many cases, the asylum authorities require the applicant to have felt and reflected on negative feelings of difference, stigma and shame in relation to their claimed sexual orientation, gender identity and/or gender expression.[16] However, experiences of LGBTIQ+ individuals vary greatly. For example, not all applicants may have experienced feelings of stigma and shame. Therefore, eligibility assessments should not be based on stereotypes or a superficial understanding.[17]

Recommendations
UNHCR recommends that the Government of Sweden:

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[11] UNHCR, Division of International Protection, *UNHCR's position regarding the detention of refugee and migrant children in the migration context*, January 2017, https://www.refworld.org/policy/legalguidance/unhcr/2017/en/115250.
[12] The assignment is available at: Statskontoret får i uppdrag att se över asylprocessen (regeringen.se).
[13] The Swedish Agency for Public Management, *Många öar små – Migrationsverkets styrning och uppföljning av den rättsliga kvaliteten i asylprocessen*, 7 October 2024, https://www.statskontoret.se/publicerat/publikationer/publikationer-2024/manga-oar-sma--migrationsverkets-styrning-och-uppfoljning-av-den-rattsliga-kvaliteten-i-asylprocessen/
[14] Anna Murphy Høgenhaug, Thomas Gammeltoft-Hansen & Asta Sofie Stage Jarlner, *Nordic Asylum Practice in relation to Religious Conversion: Insights from Denmark, Norway and Sweden*, Research Paper No.42, UNHCR, December 2023, https://www.refworld.org/reference/lpprs/unhcr/2023/en/147079.
[15] UNHCR, *Guidelines on international protection No. 6: Religion-Based Refugee Claims*, https://www.refworld.org/policy/legalguidance/unhcr/2004/en/32412, para. 35.
[16] RFSL, *Avslagsmotiveringar i hbtqi-asylärenden: en uppföljning av rättsutredningen*, 3 August 2023, https://www.rfsl.se/dlp_document/avslagsmotiveringar-i-hbtqi-asylarenden-en-uppfoljning-av-rattsutredningen/.
[17] UNHCR, *Guidelines on International Protection No. 9: Claims to Refugee Status based on Sexual Orientation and/or Gender Identity*, 23 October 2012, https://www.refworld.org/policy/legalguidance/unhcr/2012/en/89548, para. 4 and 62.

a) Continue to invest in quality assurance in relation to claims based on sexual orientation and gender identity as well as religious conversion.
b) Ensure the use of updated country of origin information in cases of religious conversion to ensure that individuals who are objectively at risk of persecution are entitled to international protection in accordance with Article 1A(2) of the *1951 Convention* and relevant UNHCR Guidelines.
c) Ensure that credibility assessments in asylum claims are undertaken in an individualized and sensitive way, in order to avoid decisions based on superficial understandings or stereotypical assumptions.

Additional protection challenges

Issue 5: Temporariness of protection

One of the key changes in Swedish asylum law in recent years has been the shift from permanent to temporary residence permits for people in need of international protection as the main rule. The introduction of time-limited residence permits has meant that the review of protection needs and cessation of protection have gained increased importance in Sweden. Moreover, the Swedish Government is aiming to fully remove the possibility of permanent residence permits for beneficiaries of international protection, including for resettled refugees.[18]

UNHCR has long advocated for refugees and beneficiaries of subsidiary protection to have a secure and stable protection status, which is not subject to regular review. That is not to say that once protection has been accorded it can never cease, but refugees should be able to rely on that protection unless significant changes take place in the country they fled from which would bring to end the risk to their lives.

Recommendations
UNHCR recommends that the Government of Sweden:
a) Provide a secure and stable residence status to beneficiaries of international protection to facilitate an early and effective integration process.
b) Grant the same length of residence permits to refugees and beneficiaries of subsidiary protection.

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[18] The terms of reference of the inquiry "Adaptation of the Swedish regulations for granting asylum and the asylum procedure to the minimum level according to EU law" is available at: Anpassning av det svenska regelverket för beviljande av asyl och asylförfarandet till miniminivån enligt EU-rätten (regeringen.se).