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Legal & Policy Framework of Migration Governance

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Executive Summary

The report aims to present the legal and policy framework of migration in Sweden in a period between 2011 and 2017. In the mentioned time Sweden witnessed a U-turn in migration governance linked with an unprecedented influx of asylum seekers in 2015 when more than 160,000 asylum applications were submitted, and introduction of a new temporary law on asylum in 2016. Since 2016, Sweden has been reshaping its image of a country open to refugees through new restrictive legislative measures which are a response not only to the mass migration, but also to lack of solidarity within the European Union on the matter of refugees acceptance.

Although the issue of asylum provokes the biggest controversies, in fact the highest number of migrants who received a residency permit in Sweden in the given period – 286,578 - are those who applied for the residency due to family reunification. Residency due to asylum was granted to 239,518 people, with the peak in 2016 when 71,571 such permits were given.

After the World War II Sweden, due to its level of economic development, the state model (welfare state) and the political system (established democracy), has become a desired destination for migrants and refugees. Until 2017 the biggest migratory group in the country were Finns, who were then replaced by Syrian refugees. This change is directly linked with the Syrian Civil War and the influx of Syrian asylum seekers to Sweden.

The constitutional entrenchment of the asylum principle in Sweden is derived from its international and European commitments, namely the European Convention for the Protection of Human Rights and Fundamental Freedoms, the 1951 Geneva Convention for Refugees and other international human rights instruments. Despite its absence in the Swedish Constitution, responsibility to protect principle was transposed to the Swedish law through the Aliens Act and other related laws.

The migration governance system in Sweden consists of several legislative acts dealing with different aspects of migration and asylum, such as asylum judicial procedures, reception, detention, health care, allowance, citizenship and borders control. The acts are as follows: Aliens Act (2005), Aliens Act Ordinance (2006), Law on Temporary Limitations to The Possibility of Being Granted a Residence Permit in Sweden (2016), Law on Reception of Asylum Seekers and Others (1994), Amendment to the law on Reception of Asylum Seekers and Others (2016), and Ordinance on the Act on Reception of Asylum Seekers (1994). Additionally, an integral part of the system are different European Union directives on migration.

Considering migration management structure, the responsibility to enact and coordinate the various judicial, legislative, administrative and financial aspects related to migration and asylum rests in hands of the Ministry of Justice and is performed through its three divisions: Division for Migration Law (L7), Division for Migration and Asylum Policy (EMA) and Division for Management of Migration Affairs (SIM). Under the Ministry of Justice operates also the Swedish Migration Agency of which main tasks are to evaluate and decide on applications from people who want to seek a temporary residence permit, acquire permanent residence or citizenship in Sweden.

After the record number of migrants coming to Sweden in 2015 and, as a result, the highest number of application for residence permit in the same year, the government introduced in 2016 restrictions to granting residence permit. Some of the main changes were to take away the possibility of permanent residency permit and tightened the family reunification possibility in order to reach the minimum level in comparison to an international and European level or to what the family reunification process in Sweden used to be before July 2016.

In the section 'Legal Status of Foreigners' the report presents the legal process of granting an asylum in Sweden, including requirements for submitting an application, steps of the procedures of application, registration and reception, identification process of an asylum seeker, rights to information and legal counselling, and other rights given to an asylum seeker such as access to housing, labour market, professional trainings and health care system. Once being granted international protection status, a refugee in Sweden is entitled to almost the same rights and duties as Swedish nationals, except from right to vote in the national and local elections. In addition, reports aims to illustrate the legal situation of irregular (undocumented) migrants and unaccompanied foreigner minors. Sweden acknowledges rights of irregular migrants as the ones derived from the human rights regime, ex. United Nations Universal Declaration on Human Rights and other international conventions. With regard to unaccompanied foreigner minors, they need to prove their age with documents or medical age assessment is conducted.

With respect to refugee crisis driven reforms, the government presented the following proposals: a prolongation of the temporary asylum law until July 2019, a revision of the asylum seekers right to arrange an own housing within the asylum seekers reception act, and a possibility for more unaccompanied minors to receive a temporary residence permit on the study ground. The projected changes herald the direction of more restrictive asylum policy, and as a result Sweden may lose its title of a country open to asylum seekers and forced migrants in light of the direction for the on-going legal and political changes.

1. STATISTICS AND DATA OVERVIEW

Until 2015, Sweden was a country relatively open to immigrants, including asylum seekers and those looking for better living and working conditions. Being placed 7th on the list of EU Member states with regard to number of asylum seekers Eurostat. (n.d.b), Sweden has been a hospitable receiving country, considering the number of her population (nearly 10 million people). However, the trend has been changed recently, after the government took more restrictive measures on immigration. It also has affected the asylum policy, since the ruling Social Democrats promised to halve refugee numbers to 14,000 – 15,000, if they win the next elections which are due September 2018 (Expressen, 2018).

According to the Swedish Statistics,¹ 884,071 people arrived to Sweden between 2011-2017. Considering only citizens of non-EU and non-EEA countries,² there were 579,427 newly arrivals in the mentioned period. In 2011-2017 immigrants who came to Sweden on the basis of family reunification or on other family-related grounds, and those who arrived for protection reasons (asylum) constituted the largest two categories of immigrants. The other two groups were labour immigrants and international students from third countries. (Swedish Migration Agency).

1.1 Residence Permits

Regarding residence permits, in the period 2011-2017, a total of 737,796 residence permits was granted to citizens of countries other than members of the European Union and the European Economic Area. 286,578 permits were granted due to family ties. The second numerous group – a total of 239,518 people - where those who were granted protection in Sweden after seeking asylum. The number included 16,522 permits granted to quota refugees to come to the country as part of the annual refugee quota.

Labour immigrants (employment reasons) and international students from third countries constituted the third and fourth largest categories of immigrants in the mentioned period, with a total of 146,955 permits granted based on employment and a total of 64,745 residence permits granted for visiting students.

¹ The Swedish Migration Agency publishes monthly statistical reports on migration, including asylum applications and first instance decisions. These include a breakdown per nationality, sex, age group, as well as statistics specifically relating to unaccompanied children. The oldest accessible data are for 2010. The older statistics are available only in an overall, aggregated tables which lack many details, including breakdowns of nationality, gender and age groups.

² The European Economic Area (EEA) is the area in which the Agreement on the EEA provides for the free movement of persons, goods, services and capital within the European Single Market, including the freedom to choose residence in any country within this area. Currently, there are three members of EEA: Norway, Iceland and Liechtenstein. Switzerland is also a signatory, but has not ratified yet the EEA treaty.

Table 1. First-time residence permits granted in Sweden in 2011-2017

Category/Year	2011	2012	2013	2014	2015	2016	2017	Total 2011-2017
Family reunification	32,469	41,156	40,026	42,435	43,414	39,032	48,046	286,578
Asylum	12,726	17,405	28,998	35,642	36,645	71,571	36,531	239,518
<i>Refugee quota</i>	<i>1,896</i>	<i>1,853</i>	<i>2,187</i>	<i>1,971</i>	<i>1,880</i>	<i>1,889</i>	<i>4,846</i>	16,522
Work	17,877	19,936	19,292	15,872	16,975	24,709	32,294	146,955
Study	6,836	7,092	7,559	9,267	9,410	10,896	13,685	64,745
Total	69,908	85,589	95,875	10,3216	106,444	146,208	130,556	737,796

Source Compilation from: Swedish Migration Agency (2017 r) (2018 s)

1.2 Asylum Seekers

The number of asylum seekers who submitted for protection in Sweden was increasing from 29,648 in 2011 up to the highest level of 162,877 in 2015. In 2016 the number decreased by over 82% comparing to the previous year. In 2016 only 28,939 people applied for asylum, and in 2017 even fewer – 25,666 (Swedish Migration Agency). The reasons behind such a significant drop were threefold: the agreement between EU and Turkey which reduce the asylum seekers in the whole Europe (European Commission 2017 a) , introduction of temporary border ID controls and eventually the stricter measures taken after the adoption of the new law on temporary residence in the late 2015.³ In total, in the period 2011-2017 there were 426,577 applications for asylum. Out of these, 283,980 (66%) were submitted by men and 142,597 (34%) by women.

Table 2. Applications for asylum received in 2011-2017

Group/Year	2011	2012	2013	2014	2015	2016	2017	Total 2011-2017
Women (including children)	10,708	16,142	19,496	26,484	48,149	11,587	10,031	142,597
Men (including children)	18,940	27,745	34,763	54,817	114,728	17,352	15,635	283,980
<i>Children</i>	<i>9,699</i>	<i>1,411</i>	<i>1,642</i>	<i>2,310</i>	<i>70,384</i>	<i>1,099</i>	<i>8,507</i>	153,212
<i>Of which unaccompanied minors</i>	<i>2,657</i>	<i>3,578</i>	<i>3,852</i>	<i>7,049</i>	<i>35,369</i>	<i>2,199</i>	<i>1,336</i>	56,040
TOTAL	29,648	43,887	54,259	81,301	162,877	28,939	25,666	426,577

Source Compilation from: Swedish Migration Agency (2012 a) (2012 b) (2013 n,a,c) (2014b) (2015b) (2016e) (2017p) (2017q)

³ For more information please see the coming sections 3.4 and 5.3.3 regarding the legislative changes in 2016 and family reunification new regulation.

Most asylum seekers in 2011-2017 came from the following ten countries: Syria (27%), Afghanistan (14%), Iraq (8%), Eritrea (7%), Somalia (6%), Iran (3%), Serbia (2%), Albania (2%), Kosovo (2%) and Russia (1%).

Table 3. Top ten countries of origin of asylum seekers in Sweden in 2011-2017

Country	Number of asylum applications by year							Total number 2011-2017
	2011	2012	2013	2014	2015	2016	2017	
Syria	640	7,814	16,317	30,583	51,338	5,459	4,718	116,869
Afghanistan	4,122	4,755	3,011	3,104	41,564	2,969	1,681	61,206
Iraq	1,633	1,322	1,476	2,666	20,858	2,758	1,887	32,600
Eritrea	1,647	2,356	4,844	11,499	7,233	1,151	1,691	30,421
Somalia	3,981	5,644	3,901	4,831	5,465	1,646	780	26,248
Iran	1,120	1,529	1,172	997	4,560	1,279	1,090	11,747
Serbia	2,699	2,696	1,669	1,512	1,053	451	309	10,389
Albania	263	1,490	1,156	1,699	2,615	785	760	8,768
Kosovo	1,210	942	1,209	1,474	1,779	355	293	7,262
Russia	933	941	1,036	879	658	414	471	5,332

Source: Statistics Sweden (SCN n,d,a)

In the period 2011-2017 Sweden granted asylum to 239,518 people. In 2015, the country witnessed a very significant increase in the number of people seeking protection. In total, Sweden registered nearly 163,000 new asylum applicants, which more than doubled comparing to the previous year. Considering the average processing time for asylum applications (approx. 328 days), this situation led to a huge backlog of pending applications in the next year. Out of 112,000 decisions on granting asylum taken in 2016, 71,571 were positive.

Table 4. Positive asylum decisions taken in 2011-2017

Legal basis for asylum	2011	2012	2013	2014	2015	2016	2017
Geneva Convention	2,870	4,617	7,646	11,341	13,552	17,913	*
Subsidiary protection	6,148	9,095	17,227	20,023	18,690	48,587	*
Humanitarian reasons	1,345	1,328	1,378	1,685	1,588	2,112	*
Quota refugees	1,896	1,853	2,187	1,971	1,880	1,889	4,846
Temporary law							
Others	467	512	560	622	935	1,070	*
Total	12,726	17,405	28,998	35,642	36,645	71,571	36,531

Source: Compilation from Swedish Migration Agency (2016e) (2017p) (2017q) Eurostat (2017a) *Lack of data (as of 4 March 2018)

1.3 Undocumented Immigrants Statistics

According to a report published by the Swedish Red Cross and Stadsmissionen organization in 2015 concerning the shadow society in Sweden the statistics on undocumented immigrants in Sweden are not revealed and the number is only an estimated one since there are no registry for them in Sweden (Stadsmissionen 2015). However, the Swedish National Board of Health and Welfare (Socialstyrelsen)⁴ report in 2010 estimated the number of the undocumented immigrants in Sweden between 10000 and 50000 with 2000 to 3000 children (Stadsmissionen 2015)(Socialstyrelsen 2010). According to news reports, an estimated 8,000 undocumented persons are registered as taxpayers with the Swedish Tax Authority (SVD, 2018). Reports from Swedish media and the Swedish police indicate that as a result of the 2015 shift in policy, whereby fewer persons are granted residence permits, more asylum seekers are staying as undocumented in Sweden, waiting for the four-year statute of limitations to run (Sverigesradio 2017). Swedish state media reports that a smaller percentage of persons reapplying for asylum are having their original denials overturned. In 2011, 61% of those who reapplied were successful, that number had fallen to 5% by the first six months of 2017 (Sverigesradio 2018 a). According to news reports, the Swedish Police are worried that the number of undocumented persons living in Sweden will rise (Sverigesradio 2018 b).

1.4 Expulsion and deportation cases in Sweden

When it comes to the expulsion and deportation cases and their numbers in Sweden, the Swedish police authority usually provides statistics which are a summary of figures reported from regional polices through the police case management system. However, the police

⁴ The National Board of Health and Welfare is a state authority working under the Ministry of Social Affairs with a wide range of tasks related social services and health services. One of these tasks is to develop statistics, rules, knowledge and support within the areas of mental health, elderly, disability and children and young people. For more information visit : <https://www.socialstyrelsen.se/omsocialstyrelsen>

authority affirms the fact that a large part of their statistics compilation is done manually. This means that there may be quality shortcomings (Swedish Police Authority (n.d.).

The Swedish Prison and Probation Service (Kriminalvården) usually sends cases for foreigner, who should be expelled due to criminal acts, to the police authority that is in charge to for the expulsion enforcement. Between 2012 and 2017 the police authority received more than 4000 cases from the Swedish Prison and Probation Service as it shows in the table 5(Swedish Police Agency (n.d.).

After the application to the Swedish Migration Agency has been submitted and exhausted all the appeal stages the Migration Agency send these cases to the police authority that will execute the deportation when it is estimated that compulsion is required or the person in question has deviated. In table 5, box 2 shows that the number of refused residence permit related applications that were handed over to the police authority by the Migration Agency for enforcement exceeded 60000 cases between 2012 and 2017(Swedish Police Agency (n.d.). This group is dominated by those who have previously applied for asylum but may also contain persons who applied for a residence permit for other reasons (Swedish Police Authority (n.d.).

The police authority can also itself take rejection decisions at the border as well as inside the territory. The number of these rejection decisions taken by the police varies and increases from 2012 until 2017 as shown in box 3 in the table 5 (Swedish Police Authority (n.d.).

Table 5. Number of cases received by the police authority for enforcement:

Category/Year	2012	2013	2014	2015	2016	2017	Total
1.Cases to be executed, Received cases from the Swedish Prison and Probation Service (Kriminalenvård)	774	788	833	675	681	639	4,390
2.Cases to be executed, received from the Migration Agency (Migrationsverket)	12,261	12,964	11,500	10,846	8,232	8,343	64,146
3. Decisions on rejections taken by the police	853	1,017	993	1,377	2,939	N/A	N/A
Total	13,888	14,769	13,326	12,898	11,852	N/A	N/A

Source: Swedish Police Authority (n.d.)

Table 6 shows that the number of executed cases by the police authority for cases sent by the courts due to criminal acts committed in Sweden was around 4000 between 2012 and 2017(Swedish Police Authority (n.d.). It also shows that number of executed cases concerning persons whose residence permit application have been rejected by the Migration Agency and handed over to the Swedish Police Authority was more than 26 000 cases between 2012 and 2017. Number of executed decisions on rejection taken by the police authority was approximately 14 000 during the same period (Swedish Police Authority (n.d.).

Table 6. Number of enforcement and execution cases by the police authority

Category/Year	2012	2013	2014	2015	2016	2017	Total
1. Executed cases from court	616	671	663	640	648	717	3,955
2. Executed cases from the Migration Agency	5,754	5,114	4,165	3,414	3,728	4,165	26,340
3. Executed cases from police expulsions ⁵	644	740	993	1,227	2,886	7,595	14,085
Total	7,014	6,525	5,821	5,281	7,267	12,477	44,380

Source: Swedish Police Authority (n.d.)

⁵ Number of executed decisions on rejection taken by the police authority.

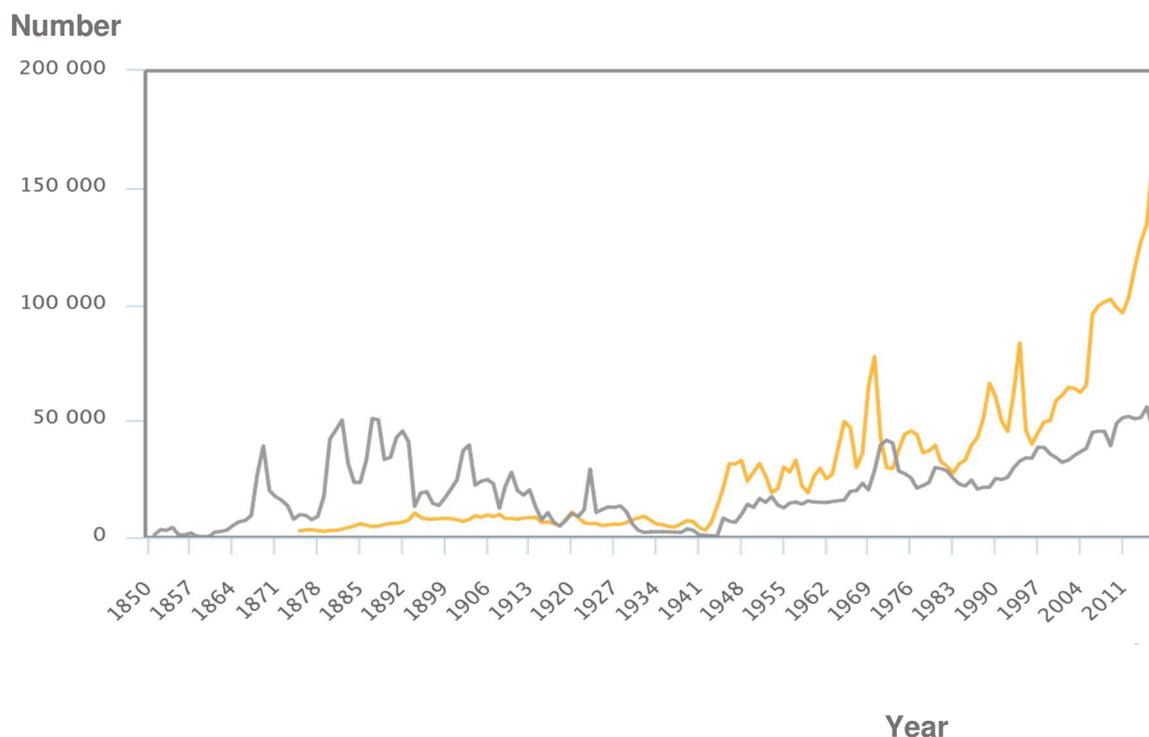
2. THE SOCIO-ECONOMIC, POLITICAL AND CULTURAL CONTEXT

2.1 Brief Migration History for Sweden

Sweden has a long history of being both a source and destination country to people seeking for a better life and future. Over the course of 100 years during 1820-1920 over 1.3 million people emigrated from Sweden to North America in *the Great Emigration*. Consequently, the large-scale emigration was a considerable social issue in Sweden until the World War II, after which Sweden for the greatest part has continuously had a positive net migration due to extensive labour-, asylum-, and later refugee migration from the neighbouring Nordic countries, Germany and the Baltics (Swedish Migration Agency, 2018 a.). Ever since the World War II, Finnish immigrants constituted the biggest single migratory group in Sweden, until in 2017 replaced by groups of Syrian-born. Most of them arriving as asylum seekers following the Syrian Crisis which began in 2011 (Swedish Migration Agency, 2018 b).

During the 20th Century, the number of asylum applications peaked in 1992 during the Baltic War when Sweden received a record of 84 000 asylum applications (Swedish Migration Agency, 2018c.). Two decades later, from 2011 until 2015, a growing migration stream was documented again, culminating by the end of 2015 when 162 877 people sought an asylum in Sweden. The year after, due to changes in Swedish migration laws, the number of asylum seekers fell dramatically and has since been on a continuously low level of approximately 25-29 000 people annually (Swedish Migration Agency, 2017 a).

Figure 1. Number of immigrants (yellow graph) and emigrants (grey graph) in Sweden 1850–2011 (Statistics Sweden (SCN),n.d.b)



2.2 Contemporary Swedish Society

With a Human Development Index of 0.913 out of 1.0, Sweden ranks 14 globally as of 2016 (UNDP, n.d.). Sweden has historically followed the so called Swedish Model combining high taxes, collective bargaining and a fairly open economy. The state holds a central position in guaranteeing public welfare services, constituting a primary social and economic safety net for all citizens (Ministry of Finance, n.d.). Accordingly, the Swedish national identity is intimately linked with a strong welfare state, as well as humanitarian commitments such as altruistic migration policies and a foreign aid corresponding to 1 % of the annual GDP (Sida, 2017).

Also in the OECD Tolerance Chart, Sweden ranks as one of the most tolerant countries, and has always been multicultural and multilingual as the languages and cultures of the Sami, the Swedish Finns, the Tornedalers, the Roma and the Jews have existed in Sweden for a long time and are a part of the society and common cultural heritage (County Administrative Board of Sweden, n.d,h). As to other cultures and religions, a broad diversity is being represented in the society by a growing number of supporters (Sutherland, 2018). Both Catholic, Muslim and Jewish communities document an increased number of supporters, although exact numbers are not available as religious beliefs are not to be registered according to Swedish law. Only 19% of Swedes claim to be religious, ranking Sweden as one of the least religious countries globally. Although 66% of the population are still members of the Evangelical Lutheran Church of Sweden, a steep decline in members has been noted in the last decennium. Still, religion plays an important ritual and cultural role in the society mainly through Christian holidays celebrated by both religious and non-religious Swedes (Sutherland, 2018).

Nevertheless, there is a contradictory to this picture of a tolerant contemporary Sweden, as recent studies such as the annual Diversity Barometer (Mångfaldsbarometern, 2016) suggest that certain aspects of religion such as religious schools are widely regarded with scepticism by the public, and that the common attitude toward multicultural societies is increasingly negative (Drevinger, 2016). In 2016, 64% of Swedes were positive to multiculturalism, a 10% drop since 2014, which possibly coincide with the politician's rhetoric's and government measures on migration taken in the midst of the so called migration situation in 2015 (Diversity Barometer, 2016; Drevinger, 2016).

During the electoral period 2014-2018, the Swedish Social Democratic Party (Sveriges socialdemokratiska arbetareparti, SAP), Sweden's historically and currently biggest political party, form the government together with the Green Party (Miljöpartiet de gröna, MP) (Government Offices of Sweden, n.d.a). As of the General Elections 2014, the far-right Sweden Democratic Party (Sverigedemokraterna, SD) with an outspoken anti-immigration agenda holds 49 seats (12%) in the parliament (Riksdagen, n.d.a). Today the party has grown to be the third biggest, and are active debaters of immigration and security issues, whereupon segregation and integration, as well as fast scale urbanization are among their most burning contemporary political issues (The Sweden Democratic Party, n.d.).

As of 2017, Sweden's unemployment rate was 6.7%. For all age groups (15-74 years), the labour market is more challenging for non-natives, as 69.4% of natives and 61.9% of non-natives are in active employment (Statistics Sweden, 2017). Most notable is the youth (15-24 years old) unemployment rate of 20.8 %, or 7.2% for youth neither in school nor in employment (UNDP, n.d.).

Rural communities outside major cities, especially in the Northern Sweden are shrinking regarding both population and basic services as many young people move in to the cities and state agencies and other service providers are moved due to efforts of centralization. Many of the asylum seekers that arrived in 2015 were placed in rural communities and cities, making up an important although challenging part in populating and integrating into these areas (Lilja & Pemer, 2010:16). In the cities, the ethnic diaspora is often located in the suburbs and the

residential segregation tangible (Lilja and Perner, 2010:3). This cleavage is meaningful for the discourse on migration, as fewer job opportunities constitute an integration challenge for non-natives.

Finally, the Swedish Contingencies Agency (Myndigheten för Samhällsskydd och Beredskap, MSB) estimates that arson constitutes a third of all fires reported for asylum accommodations (Swedish Contingencies Agency, 2016). It is reasonable to suggest, that the arsons constitute one example of the increased public criticism against migration.

3. THE CONSTITUTIONAL ORGANIZATION OF THE STATE AND CONSTITUTIONAL PRINCIPLES ON IMMIGRATION AND ASYLUM

3.1 System of Government in Sweden

Sweden is a constitutional monarchy and parliamentary democracy. This means all public powers, which also includes the migration governance, proceed from the people through the Swedish parliament (Riksdag) (Kungrörelse, 1974:152, Ch. 1, para1). The king is the official head of the state with some symbolic and representative missions, but lacks any kind of political power (Kungrörelse, 1974:152, Ch. 5). The system of government in Sweden is regulated by the fundamental four laws (Sveriges grundlagar) in a similar way to the constitutions in some other countries (Government Offices of Sweden, 2015 a). These fundamental four laws consists of the Fundamental Law on Freedom of Expression (Yttrandefrihetsgrundlagen), the Act of Succession (Successionsordningen), the Freedom of the Press Act (Tryckfrihetsförordningen) and the Instrument of Government (Regeringsformen) (Government Offices of Sweden, 2015a). The system of government in Sweden, how it functions, its basic principles and the parliamentary election application for example are described in the Instrument of Government (Government Offices of Sweden, 2015a).

The parliamentarians, who all are required to be Swedish citizens, are elected every four years by the Swedish citizen voters, any above 18 years and citizen of Sweden (Kungrörelse, 1974:152, Ch. 3, para4,). In Sweden the general elections are held on national (Riksdag), regional (Landsting) and local municipal (Kommun) levels respectively (Government Offices of Sweden, 2015 b). Nevertheless, the above 18 years old residents of the EU citizens, Norway and Iceland states' citizens, who are registered living in Sweden, have the right to vote in county council and municipal levels, whereas nationals can vote in all three elections (Government Offices of Sweden, 2015 b). Once the 349 Swedish parliamentarians are elected the prime minister can be appointed by the Swedish parliament. Subsequently, the prime minister can commence the government formation and choosing the ministers including the minister of migration (Regeringskansliet, 2015 a).

The administration of the government in Sweden is being conducted nationally, regionally and locally and in some cases on European level (Government Offices of Sweden, 2015 c). On a national level the Swedish parliament ratifies and decides new laws and amendments to the old laws and sometime initiates motions including the migration and asylum regulations and policies (Riksdagen, 2018 b). The government is assigned to initiate new laws and suggests amendments to the old ones and also executes and implements parliamentary decisions (Riksdagen, 2018 b). Around 200 legislative proposals are annually submitted by the Swedish government to the Swedish parliament (Government Offices of Sweden, 2015 d). According to the Swedish parliament released information: "in simple term, one can say that the government suggests and the parliament decides" (Riksdagen, 2018 b). That means the Swedish government governs Sweden by initiating laws, amendments to the old ones but it still needs the parliament's approval. Nevertheless, the Swedish government is authorized by the Instrument of Government to issue ordinances which are applicable all over Sweden (Riksdagen, 2018 b). Sweden has 21 counties (Landsting) including the regions Gotland, Halland, Skåne and Västra Götaland and each county has its own elected county council (Landstingsfullmäktige) (Government Offices of Sweden, 2015 d). The county councils take decisions in regional level within their territories in accordance with the county's tasks which are mainly related to the collective transportation, health and dental care services and regional planning and development (Swedish Association of Local Authorities and Regions (SKL),

2017a). There are 290 municipalities (Kommuner) in the 21 counties and regions in Sweden and each municipality has its own elected municipal council (Kommunfullmäktige) which takes decisions in relation with the municipalities' task and work (SKL, 2017b). These tasks are mainly related to the elementary schools, other types of schools, social services and elderly care on local level (SKL, 2017c).

The Swedish government (Regeringen) governs the country with the assistance of the government offices (Regeringskansliet) and about 220 other governmental authorities (Regeringskansliet, 2015 b). According to the governmental released information “the governmental offices form a single, integrated public authority comprising the Prime Minister's Office, the government ministries and the Office for Administrative Affairs” (Government Offices of Sweden, n.d.b).

Ministry of Justice and Internal Affairs (Justitiedepartementet) in the Swedish government is in charge to manage the Swedish judicial system including migration courts, asylum emergency preparation and the other migration and asylum related issues. In addition, the Ministry of Justice is also responsible to execute and implement different legislations such as those within the field of migration and asylum (Government Offices of Sweden, 2017b). The Swedish minister of migration works at the ministry of Justice and internal affairs dealing with all the migration, asylum and citizenship matters and simultaneously occupies the position of the minister of Justice Deputy (Government Offices of Sweden, 2017 b). In addition, the ministry of justice has 19 divisions with different types of responsibilities but three of them only manage with different migration and asylum related issues, namely Division for Migration Law (L7); Division for Migration and Asylum Policy (EMA); Division for Management of Migration Affairs (SIM) (Regeringskansliet, 2017a).

The Swedish Migration Agency (Migrationsverket) functions according to instructions drafted in an ordinance (2007:996) by Division for Migration Law (Regeringskansliet, 2017a). According to the first paragraph in this ordinance the Swedish Migration Agency is the administrative authority for all issues related to residence permits, work permits, visas, reception of asylum seekers, citizenship, instructions for municipalities on the new arrivals, the returning or deportation process, and returnees.

3.2 Constitutional Entrenchment of The Principle of Asylum

The four fundamental laws, which form the Swedish constitutions, do not explicitly mention the asylum right, however, paragraph seven in chapter ten of the Instrument of Government (Kungörelse, 1974:152) states that Sweden cooperates with other countries and inter-governmental organizations such as United Nations and European Union. Thus, the constitutional entrenchment of the asylum principle in Sweden could be seen as derived from its international and European commitments. Sweden joined the European Union in 1995 after negotiation for the accession agreement (Government Offices of Sweden, 2013,p6). According to the governmental published information:

“One important condition for transferring decision-making powers to EC bodies was that the Communities had safeguards for rights and freedoms corresponding to those enshrined in the instrument of Government and the European Convention for the Protection of Human Rights and Fundamental Freedoms” (Government offices in Sweden, 2013, p8).

In addition, Swedish judicial system comes under the EU *acquis communautaire* which means the superiority of the laws ratified on the EU level over the EU state members' domestic laws (Government Offices of Sweden, 2015 e). Accordingly all EU member states including Sweden have to have common regulations in certain areas (Riksdagen,2017a) such as the EU asylum regulations which consider the 1951 convention and its 1967 protocol are cornerstone for the asylum regime (Qualification Directive, 2011/95/EU, Para 4). Sweden is a signatory of the 1951 Geneva Convention for Refugees and other international human rights

instruments.⁶ Sweden has integrated the 1951 Geneva Convention refugee definition and other related rules in its Aliens Act (2005:716).

3.3 Structure of The Migration Judiciary in Sweden

According to the Swedish courts (Sveriges domstolar) there are three types of courts in Sweden which are as follows (Domstolarna, 2017a):

1. The General Courts namely the District Courts (Tingsrätterna), the Court of Appeal (Hovrätt) and the Supreme Court (Högsta domstolen);
2. The General Administrative Courts namely the Administrative Court (Förvaltningsdomstol), the Administrative Court of Appeal (Kammarrätten) and the Supreme Administrative Court (Högsta förvaltningsdomstolen);
3. The specialized courts that can settle disputes in various special areas, such as the Labour Court and the Swedish Arbitration Tribunal.

The administrative courts are twelve in Sweden and the Migration Courts exist in four administrative courts in Sweden, Stockholm, Malmö, Göteborg and Luleå (Government officer in Sweden, 2015 f). One main task of the General Administrative Courts amongst other ones is to look into any dispute between the Swedish authorities and private persons (Domstolarna, 2017b). Migration Courts and Migration Supreme Court form main parts of the migration chain in Sweden which starts when the Swedish Migration Agency has rejected the citizenship, work, asylum or other related applications (Domstolarna, 2017b). The Migration Courts examine all the decisions taken by the Swedish Migration Agency. So the Swedish judiciary including the migration judicial process has three instances; the first one starts with the Migration Agency; then it moves to the second stance court that is the Migration court in one of the four above-mentioned administrative courts. The third and final instance is at the Supreme Migration Court where the unsatisfied applicants with the migration court's decision can make an appeal (Domstolarna, 2017c). However, the appeal to the Supreme Migration Court needs an initial permission or what is called leave to appeal to review (Prövningstillstånd) by Supreme Migration Court itself in order for it to start examining the appeal decision of Migration courts (Domstolarna, 2017d).

3.4 Independence of the Swedish Judiciary

According to the chapter 12 in the instrument of government which is part of the fundamental laws in Sweden, neither the government nor the parliament can influence the public authorities' decision that applies for an individual case or person, nevertheless, the public authorities are in their turn obliged to follow the ratified law by the parliament. This means that, as it is explained in the Swedish parliament paper on facts about the parliamentary control, no ministry or minister has the power to intervene in the governmental agencies' daily decisions, activities, conducts and actions that are under its supervision or mandate (Riksdagen, 2017b). This rule applies also to the steering relations between the government on one side and Swedish Migration Agency as well as the Migration courts and the Migration Supreme Court on the other side. Nevertheless, the Swedish parliament exercises its controls over the operations at the courts by so-called "means of legislations" which means initiating new laws or amending old ones (Domstolarna, 2017 f). Although the Swedish government cannot influence the daily decisions of the public agency however it plays still a substantial role in the management of its governmental agencies that includes the migration agency and migration courts. This is usually done through- so called the annual terms of reference letter or appropriation directives (in Swedish "Regleringsbrev") (Domstolarna, 2017 g). In addition, the

⁶ For example Article 14 of the Universal Declaration of Human Rights (1948), which Sweden has adopted, states that "Everyone has the right to seek and to enjoy in other countries asylum from persecution."

government can use and issue ordinances through its government offices in order to control the governmental agencies' powers, obligations and budget (Government Offices of Sweden, 2015 g). There has been no indication or any report by any internal or external actor or evaluator that can confirm that the Swedish government has been breaching this ministerial rule principle in any way. Simultaneously, the Swedish parliament is the observer and protector of the application of the ministerial rule prohibition principle (Government Offices of Sweden, 2015 g). The only remedy, which the Swedish government has when the governmental agency has not correctly applied the law in the letter of the terms, is to seek to amend the relevant legislation (Government Offices of Sweden, 2015 g).

3.5 Role of the Judiciary in The Interpretation and Definition of Laws and Policies on Asylum

The Migration Supreme court can only grant this initial permission or leave to appeal if one out of two conditions are met. According to the chapter 54, paragraph 10 in the Swedish code of judicial procedure (1998:605) the first one is if the case is of importance for the guidance of the law application. Or alternatively in more seldom cases, due to exceptional reasons such as that grounds exist for relief for substantive defects or that a grave procedural error has occurred or that the result in the court of appeal is obviously due to gross oversight or to gross mistake (Government Offices of Sweden, 1998). In fact, a great number of appeal applications are received by the Supreme Migration court but the number of given initial permission is very limited (Domstolarna,2017d). This is because the main task of Supreme Administrative Court is only to establish precedents through its concert decisions that provide guidance and guidelines to the courts and other involved individuals in the legal process (Domstolarna, 2017 d). Accordingly, the importance of the case for the individual is not enough for the Supreme Migration Court to give the leave to appeal if it is not of importance for other cases with similar circumstances (Domstolarna, 2017 d).

3.6 Case-Law on Asylum

The Swedish judiciary belongs to the civil law tradition similarly to many European Countries, where case-law does not play the same role as in countries with the common law traditions. As a result the case-law does not have the binding force in the Swedish judiciary system in the same way as in the United Kingdom for example, nevertheless it has some guidance and precedent influence (Well , E. 2018). For example recently in the end of 2017, the Supreme Migration Court in Stockholm issued two judgments relating to employment conditions (AG v Migrationsverket, MIG 2017: 24) (Domstolarna, 2017 e) and (DM v Migrationsverket, MIG 2017: 25) (Swedish Migration Agency, 2017 b). The Migration Supreme Court accepted the appeal in the two cases and granted the applicants extended work permits and permanent residence permits. Those two judgements will eventually provide precedent and guidance after they will be analysed by the Swedish Migration Agency in order to decide how it will work with similar cases in the future (Swedish Migration Agency, 2017b). In the first judgment the applicant received a lower salary than the collective bargaining salary standard during a part of the previous licensed period which is not allowed in Sweden since it gives less protection to the workers. Thus, the question was if he or she will be granted extended work permit or not. The issue in the second judgment was if the applicant's terms of employment, where occupational pension and sickness insurance were not provided during the previous licensed period, can be regarded as worse than the Swedish collective bargaining standard or not (Swedish Migration Agency, 2017b).

4. THE RELEVANT LEGISLATIVE AND INSTITUTIONAL FRAMEWORK IN THE FIELDS OF MIGRATION AND ASYLUM

4.1 Migration and Asylum Policy of the Swedish Government

The current Swedish government has announced through various channels, such as its homepage, its national migration and asylum roadmap, action plan and policy for its mandate period between 2014 and 2018 (Government Offices of Sweden, 2018 b). In this road map the government emphasizes in the goals of its policy on the importance of the long term planning, sustainability and the developmental effects of the migration to the Swedish progress. Therefore, the government states in its plan that it will work to promote for demand-driven labour-immigration and to facilitate cross-border mobility within the frame of regulated immigration as well as to maintain the right to seek asylum. Furthermore, this government policy highlights the importance and role of the deepening of the European and International cooperation to achieve these goals through the United Nations organizations and European Union institutions. The government in the same roadmap states that Sweden should be an active member in the European Union institutions in order to protect and promote for the asylum right and rights of other vulnerable groups. This will be, as it is stated in the government same publication, through a European Common sustainable humanitarian Asylum System which is built on shared responsibility and solidarity in distributing the asylum seekers between the European member states. This government road map confirms also the significance of the effective and constructive cooperation between the relevant authorities, municipalities and civil societies.

4.2 Migration Management in Sweden

The Ministry of Justice is the responsible ministry in the Swedish government to enact and coordinate the various judicial, legislative, administrative and financial related aspects to migration and asylum. According to the Ministry of justice information (Regeringskansliet, 2017b) the ministry governs the different aspects of the migration and asylum process through the three following divisions that have different responsibilities as follows:

Division for Migration Law (L7): Under this division's responsibility comes the legislative issues in relation to migration law, Swedish citizenship and certain border control matters. Thus, this division is responsible for the application of following acts:

The Aliens Act, the Asylum Seekers Reception Act, the Asylum Seekers Health Care Act, the Act of Loan and other compensation for job performed by a foreigner who is not permitted to reside in Sweden, the Passenger Registration Act, the Transit of Third Country Citizen Act and the Swedish Citizenship Act (Regeringskansliet, 2017 b).

Division for Migration and Asylum Policy (EMA): Under the responsibilities of this division come the international cooperation in relation with the migration policy, all issues concerning refugee and migration policy inside Sweden and the other grounds concerning the foreigners' right to stay in Sweden in addition to all the Swedish citizenship issues as well (Regeringskansliet, 2017 b).

Division for Management of Migration Affairs (SIM): This division is responsible for economic governance and follow-up in the field of migration. This makes SIM division responsible for coordinating the budget work for Migration and asylum in Sweden. Furthermore, under SIM responsibilities come all the matters concerning the Migration Agency (Migrationsverket) as well as the reception of asylum seekers (Regeringskansliet, 2017b).

In Sweden several authorities and actors are involved in the different aspect of the migration and asylum chain before the asylum seeker is granted the refugee status or the foreigner is permitted to work and given the residency permit and after. The Swedish Migration Agency presents them as follows (Swedish Migration Agency, 2018 f):

1. The Swedish embassies and consulates abroad receive applications for visas, residency permit and job permit;
2. The Swedish police is responsible for border control and deportation.
3. Migration Supreme Court and Migration Courts where the Migration Agency's decisions can be appealed;
4. The county administrative boards (Länstyrelsen) are in charge of distributing the asylum seekers, who have been granted a residency permit, and engaging them with introduction program in their respective region after coordination with the municipality;
5. The municipalities are responsible for receiving asylum seekers who have been granted residence permits;
6. The county council (Landstinget) is in charge when it comes the asylum seekers' health care, NGOs and aid agencies, which can support asylum seekers;
7. The Children's Ombudsman, the county administrative boards, the National Board of Social Affairs and Sweden's municipalities and the county councils are together cooperating for the reception of unaccompanied minor asylum seekers.

The Swedish Migration Agency describes its role as the link for the whole asylum and migration chain in Sweden as well as the maintainer who holds this chain's different parts together (Swedish Migration Agency, 2018 f). The Migration Agency assigns the newly arrivals, who are covered by the resettlement Act (Lag om etableringsinsatser för vissa nyalända invandrare, 2010:197), to the different municipalities besides it decides over the governmental compensation for each municipality (Swedish Migration Agency, 2018 f). Then the role of the Swedish municipalities as it will be explained thoroughly in the coming sections county councils (Landstingen), the county administrative boards (Länstyrelserna), the Swedish National Insurance Agency (Försäkringkassan), the Swedish Board of Student Finance (CSN), along with the Swedish Public Employment Services (Arbetsförmedlingen) starts in order to provide the newly arrivals the good reception in the Swedish society (Swedish Migration Agency, 2018 f). The Swedish government decides how many newly arrivals will be distributed to 290 municipalities in 21 country councils and regions in Sweden within the framework of the Settlement Act. Before that the government uses the Migration Agency's forecast to decide that (Swedish Migration Agency, 2018 g). The Swedish Migration Agency works according to an annual plan which is an estimating to the number of newly arrivals who each municipality is going to receive every month during a year (Swedish Migration Agency, 2018 g).

According to the Swedish report for the Asylum, Migration and Integration Fund National program (AMIF) (Swedish Migration Agency 2017, s p7) the cooperation between the different authorities and actors involved in the migration and asylum process was not clearly coordinated before 2013 in Sweden. As a result the individual used averagely to contact around ten different authorities and had about forty conversations with different governmental officials during the asylum process and after (Swedish Migration Agency, 2017, s p7). In 2013 the Swedish Migration Agency with other authorities in Sweden were therefore asked to sit together and conduct a study concerning the process for the asylum seeking from the application point to the settlement and self-sufficiency point in order to come with different proposals and solutions. The proposed solutions after the task were as follows (Swedish Migration Agency, 2017 s p7):

1. To improve the cooperation between authorities by setting up cross-professional teams from different involved actors and authorities;
2. To adjust the delivered information by the different authorities to asylum seekers;

3. To conduct survey about the educational and vocational background for the asylum seekers

In 2014 the Swedish Migration Agency signed also a memorandum of understanding with all the involved actors within the migration and integration process in Sweden such as the Swedish public employment service (Arbetsförmedlingen) and the Swedish National Insurance Company (Försäkringskassan). This was in order to strengthen the cooperation dialog between them with purpose to support the asylum seekers, newly arrivals and other migrants with the needs to make their integration easier in the Swedish society and market (Swedish Migration Agency, 2014 n,a).

4.3 National Legislation on Immigration and Asylum

Sweden has several legislative acts governing the migration and asylum different aspects from asylum judicial procedures, reception, detention, health case, allowance, citizenship and to boarders control etc. These are to a large extent based on international asylum law and EU legislation as will be elaborated below. The main national legislatives are as follows:

1. Aliens Act (Utlänningslagen 2005:716)
2. Aliens Act Ordinance (Utlänningsförordningen 2006:97)
3. Law on Temporary Limitations to The Possibility of Being Granted a Residence Permit in Sweden (Lag om tillfälliga begränsningar av möjligheten att få uppehållstillstånd i Sverige 2016:752)
4. Law on Reception of Asylum Seekers and Others (LMA) (Lag om mottagande av asylsökande 1994:137)

The Aliens Act (2005:716) is the main legislation in the Swedish national legal system that regulates foreigner's right to enter, stay and work in Sweden. The law also stipulates under which conditions a foreigner can be rejected or expelled from the country. Aliens Act (2005:716) has for example twenty three chapters which contains all the different migration and asylum related-definitions and provisions. Some of those provisions are concerning refugee and subsidiary protection definition (chapter 4), residence permits (chapter 5), work permit (chapter 6), the right of residency (chapter 3), expulsion and rejection (chapter 8), the Migration Courts and Migration Supreme Court (chapter 16) etc.

This law does not cover all parts of migrant law applicable in the country. Beside the EU legislation there are also specific other laws affect Sweden such as the so called anti-terrorist laws, or specific laws aimed at undocumented migrants something that will mentioned further in the sections below. Thus, in Sweden there is no one consolidated Immigration law to deal with all the migration and asylum aspects. The different legislative acts including the European Union Directives complete each other and have created one consolidated immigration and asylum legislative system. There are several examples on how these different legislative acts are forming this immigration system. For example when it comes to the security issues and public order the Aliens Act (2005:716) and the special Aliens Control Act (Lagen om särskild utlänningskontroll 1991:572) covers two different types of security situations. In light of paragraph seven in chapter one in the Aliens Act (2005:716) the security cases are the ones where the Swedish Security service, for reasons relating to the security of the kingdom or of great importance for the public security, is ordering that a foreign to be deported or expelled or alternatively to withdraw or reject the residency permit or job permit application. While the Special Aliens Control Act (1991:572) focuses on the security and terrorist offenses (1991:572, para 1) and the expulsion application according to this act can only be taken by the Swedish Security service (1991:572, para 2).

Furthermore, the Swedish legislative immigration system has been adjusted to the fundamental principle of freedom of movement and residence for persons within the European Union as well as Union citizenship and Schengen agreement. The right for free movement of EU citizens and their family members is embedded in the Aliens Act (2005:716, cha 1 § para4) that refers to EU directive (2004/38/EG) of the European Parliament and Commission (European Parliament, 2018). Even the Swedish courts has emphasised on the fact that many of the provisions of the Aliens Act have been introduced by an EU directive and when such legislation is unclear, the interpretation should be loyally in accordance with the wording and purpose of the Directive (M v Migrationsverket, MIG 2007: 14).

In short it can be said that the ever-globalised world the migration laws are to an increased degree affected by other phenomenon related to migration. This of course makes the legal context more complex and interconnected to other areas of law, may it be anti-terrorist laws or human rights legislation.

4.4 Gradual Harmonization to EU Legislation

Since 1 January 1995 Sweden has a member of the European Union (European Parliament, 2015). Due to the entry into the Union Sweden is also a part of the European Union's specific rules and legislation within the area of asylum and protection of migrants. According to article 189 in the Rome accord it is stipulated that a regulation shall have general application on all Member States. As migration has become a crucial issue in European Union and anything that is decided in their institutions has direct application in Sweden regardless of the previous national legislation through the different directives which are domestically applicable in Sweden after they are enacted in the EU level. The Swedish parliament approved in 1998 the succession to the Schengen agreement (Riksdagen, n,d). As of 25 March 2001 Sweden has been a full member of the operational of the Schengen agreement. In addition, the European Union have developed a number of Directives that set out minimum norms when it comes to the issue of asylum and asylum seekers. The said goal for them is to ensure that asylum seekers are treated equally wherever they might apply inside the EU. In total there are currently five such directives; the revised Asylum Procedures Directive, The revised Reception Conditions Directive, The revised Qualification Directive, The revised Dublin Regulation and The revised EURODAC Regulation (European Commission, 2018 c).

4.5 Legislative Changes in 2016

The European Union, including Sweden, have generally experienced one of the most critical challenges and crisis since its foundation due to the unprecedented refugee influx in 2015 after the Syrian crisis (The European Commission, 2017 b). The number of asylum seekers who arrived in Sweden and sought asylum reached to a record peak in November 2015 (Swedish Migration Agency, 2018 d). This has forced the Swedish government to amend its rhetoric and eventually its action plan from calling not to build walls in Europe to introduce border checks in its border after receiving asylum seekers more per capita than any other European countries (BBC, 2016). On 24 November 2015 the Swedish government proposed several measures aiming, as the government declares, to reduce significantly the number of asylum seekers and improve the asylum reception and integration system (Regeringskansliet, 2016 a). A new restrictive temporary law in 2016 (2016:752) was proposed and introduce these measures. This was due to the fear and doubts , as the Social Democrat ruling party expresses it (SD, 2018), about the Swedish system ability to cope with continuous increase or similar number of asylum seekers which exceeded ten thousands per week in end of year 2015. Although the Swedish government confirmed that the system in Sweden can still manage (Regeringskansliet, 2016 a). Some of the main changes, that the temporary limitations law (2016:752) in Sweden has made, were to take away the possibility of permanent residency permit, tightened the family reunification possibility for the beneficiaries

of international protection and adding maintenance requirement.⁷ This is, as the government indicates in its bill, in order to reach the minimum level in comparison to an international and European level (Regeringskansliet, 2016 a) or to what the family reunification process in Sweden used to be before July 2016 (Swedish Migration Agency, 2018 e).

⁷ Please for more details see the family reunification section (5.3.3) below.

5. THE LEGAL STATUS OF FOREIGNERS

Existing as a foreigner in a foreigner country requires a legal status which is naturally granted by the national authorities inside that country or sometimes outside its territory through its embassy in a form of visa or residency permit. This legal status has a reason or ground which varies from job, business, tourism, family bond or visits, and international protection since the home country cannot provide it etc. In this section the different legal statuses of foreigners, including the status of irregular (undocumented) persons, in Sweden and their entitlements and consequences are going to be discussed and analysed. This will be in light of the ongoing rapid changes in the social, political and legal realm inside Sweden.

5.1 International Protection

5.1.1 International Protection Grounds:

Granting the asylum seekers international protection requires recognition and declaration of the status of being refugee or a beneficiary of subsidiary protection or other protections. Sweden is a signatory of the 1951 Geneva Convention on refugees and its 1967 protocol that form the cornerstone of the international as well as European legal regime for protection of the refugees (Qualification Directive 2011/95/EU, para4).⁸ According to the Swedish Aliens Act (2005:716, Ch.4, para1), European law and international law **a refugee (flykting)** is “*a person owning to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality or of habitual residence in case he or she was stateless and is unable or, owing to such fear is unwilling to avail himself or herself of the protection of that country.*”

This is, according to the same paragraph, regardless if the fear of persecution from the state side or if the state, other parties or organizations controlling the territory fails to provide effective and not temporary protection to that person. Granting the refugee status to the Asylum seeker will entitle him or her to three years residence permit after the new law on temporary limitations (2016:752) entered into force in Sweden in 2016 before it used to be a permanent. According to the European law (Qualification Directive 2011/95/EU, para6) the refugee status should be complemented by measures on subsidiary forms for protection, offering an appropriate status to any person in need of such protection. The Aliens Act (2005:716, ch4, para2) defines **the subsidiary protection beneficiary (alternativt skyddbehövande)** as a foreigner, who the refugee definition in this act does not apply to his or her case, is outside his or her country or nationality or habitual residency because of a clear ground to assume that this person will face a risk by his return:

1. To be penalized by death or
2. To be subjected to psychical penalty, torture or other inhuman or humiliating treatment or punishment;
3. To be harmed in serious and personal way as a civilian because of armed conflict.

The beneficiary of the subsidiary protection gets 13 months residence permit.

Other Protection grounds under International commitments.

According to paragraph 2a in chapter 4 of the Swedish Aliens Act (2005:716) there are other grounds for the international protection when Sweden can risk preaching its commitments and obligations in light of the international law by denying the residence permit. The asylum seekers whose circumstance do not meet the conditions of the refugee definition or the

⁸ Directive 2011/95/EU on standards for the qualification of third - country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast) (hereafter the "recast Qualification Directive). It is available at https://ec.europa.eu/home-affairs/what-we-do/policies/asylum/refugee-status_en

subsidiary protection beneficiary can still be granted a residence permit in some extraordinary personal situations as follows:

1. If the asylum seeker is outside the country of nationality or habitual residency in case of the stateless person;
2. If the asylum seeker risks being subjected to human trafficking or environment disaster or very serious health issues. In fact, Swedish courts have not interpreted this provision yet (Commissioner for Human Rights, 2018).

The possibility for permanent residence

The new law on temporary limitations (2016:752) makes the possibility of permanent residency an exception. The general rule is temporary residency for either 13 months or 3 years. After the expiration of this time it is stated if the need for protection is still present this temporary status can be extended for another temporary period. The easiest road to permanent residency in this legal structure is if the person is able to secure an employment that would fulfil the requirement for work permit. Thus, the quickest way for a person initially deemed in need of protection to get a permanent residency under the new legislation is to change from protection into employment (Regeringskansliet, 2016 a).

5.1.2 Dublin System

European member states before starting conducting the refugee status determination process look into the possibility for Dublin regulations application (604/2013). The Dublin regulations are a part of the European Union's quest for a common system in regards to asylum in all member states. The aim of the Dublin ordinance is to assure that (Dublin regulation, 604/2013):

- One member state is to be responsible for assessing a claim for asylum.
- Every individual applicant should be guaranteed an asylum procedure according to rule of law.
- Which country that bears the responsibility in the union to process a claim for asylum should be decided as soon as it is possible.
- Prevent that the institution of asylum is being abused by having several applications submitted in more than one country.
- Safeguard the principle of family unity, meaning keeping family together as much as possible

Responsible member state: The principle of the first member state means that the country that has first received an application for asylum should, as a main rule, finish the procedure. This does also mean that this country is responsible to return people that have been denied asylum, this in accordance to article 18 in the regulation (Dublin regulation, 604/2013). Since 2003 that European Union has used Eurodoc, a central database with fingerprints from all asylum seekers as well as foreigners that has passed one, or more of the external borders of the Union (European Commission, 2018,a). This database registered every single individual in these categories that are above the age of 14 years old (Dublin convention,604/2013, article17). In addition to this system, the EU member states have used since 2008, Visa Information System (VIS) that is also created in order to have a uniform visa system throughout the Union, and to enable deciding the responsible member state (European Commission , 2018 b).

The basic rule in light of Dublin regulation (Dublin convention, 604/2013, article 9-13) that decides if transference should take place is when:

1. The family of the individual is in another member state where they either already have applied for, or granted residency.
2. The individual has been granted residency or asylum in another member state (and it as expired less than 2 years or in the latter case six months)
3. Travelled into another member state, regardless if it regards illegal or legal state. This expires after 12 months.

This can be executed if there has been what it is called an “accept” from the other member state. In these circumstances a silent or implicit “accept” is also valid, i.e if the country does not respond negatively, it can be assumed that they accept (Dublin convention, 604/2013, article 22). The transference shall be performed within the time limit, depending on the circumstances in the case, either 6 months, 12 months or 18 months. The date from which this time is counted is from the final decision or when the “accept” took place, whichever is the latest. During this procedure the member states are expected to exchange information about certain aspects of the case and individual, such as the health state, contact information to family, and an assessment of age if applicable (Dublin convention, 604/2013).

Procedural procedure and assessment: In all these cases the communication must be clear and coherent to the applicant regarding the steps taken (Swedish Migration Agency, 2017 c). The appealing of the initial decision by the Migration board can be done in the same way as regular asylum cases, first to the Migration court, and then to the Migration Supreme Court (Swedish Migration Agency, 2017 c).

Unaccompanied minors involved in Dublin procedure are in principle always awarded a legal public counsel by the state, where as applicants considered as adults are not (Swedish Migration Agency, 2017d). The transfer can take place directly after a decision is taken, unless an applicant appeals the decision and then the executive process can become what is so called “inhibited”. There are additional regulations when it comes to unaccompanied minors, article 6 protection for minors and article 8 for individuals that are considered under age (Dublin convention 604:2013). They may be transferred to another member state where parents or siblings already reside. Another possibility for this is if there is another member state where a more distant family member outside the nuclear family resides. These regulations may be enforced under the circumstance that it is in the best interest of the child (Dublin convention, 604:2013, article 15-16).

Exception to the rule of transference (Dublin convention 604:2013, article 17): If there are systematic problems in the asylum system in a country that might risk inhuman and degrading treatment (Dublin convention 604:2013, article 3.2) the Union can decide a general stop of transferring asylum seeker back as in the case of Greece (A.F Ali. v. MIG 2010:21) in accordance to the case law created by *M.S.S. v. Belgium & Greece (2011)*. Other reasons for not transferring a person to another member state may occur if there are so called strong humanitarian grounds against it (in Swedish “*starka humanitära skäl att inte överföra*”) (Swedish Migration Agency, 2015 a).

This has a few examples from the Swedish standpoint. In the case with number (IAA.v. Migrationsverket, MIG 2016:16) that dealt with possible transfer of a family with children to Hungary where there was a high risk that they might be further replaced to Serbia and

detention. Another case (MIG 2007:32) dealt with a possible transference to France from Sweden for one adult with a child. In this case the court decided that it was not enough to cancel the transfer. According to the possibility of an exception in article 3.1 in Dublin convention (604:2013) there is a possibility for each member state to make an exception to the rule of transference and process the claim instead of sending the person back.

Detention according to Dublin: At any point during the Dublin process the member states have the right to detain a person, if there is a high risk that this person otherwise might disappear (Dublin Convention, 604:2013, article 28). However, there are certain criterion that need to be met in order for this to be allowed and this is regulated in article 28 (Dublin Convention, 604:2013). There are also certain described time limits that is the same for all member states bound by Dublin regulation as follows:

- Request for reception to another member state must be sent within one month from asylum application have been submitted.
- The member state receptive must answer within two weeks.
- Transfer must take place within six weeks from that the member state accepted or within six weeks from the final decision from the court.
- The minimum conditions in detention are regulated in article 9,10 and 11 in directive 2013/33/EU.

5.2 Asylum Seekers in Sweden

5.2.1 Legal Grounds for Seeking Asylum in Sweden

Granting a foreigner a residency permit because he or she is a refugee or foreign beneficiary of subsidiary protection is how the Swedish Aliens Act (2005:716, ch 1, para 3) defines asylum. Fear of persecution or inhuman treatment claim is enough for a foreign to seek an asylum in Sweden if he or she expresses their needs for protection for their life or freedom because of persecution against their human rights in their home countries (Swedish Migration Agency, 2017 e). According to Swedish Alien Act, that has its foundation in this section in international and EU laws, refugees and others in need of protection are given the right to residency (2005:716, ch5, para1).

The asylum application can take place only inside Sweden or on the Swedish border (Aliens Act, 2005:716, Ch5, Para1). Thus, there is no possibility to seek asylum in any Swedish embassy outside the Swedish territory. (Swedish Migration Agency, 2017 f). However, residency is also possible to be given to a foreigner deemed to have serious protection needs that through UNHCR: s resettlement program is sent to Sweden. This group is sometimes referred to as quota refugees⁹, as the government in close cooperation with UNHCR decides upon them. These refugees are, in the same way as refugees that managed to get to Sweden to apply for asylum given residency. This is a much smaller fraction of the overall group of refugees, and was also a group that was especially mentioned in the temporary law. They are one of the few where the right to permanent residency still remains. Sweden received the total of 3400 quota refugees during 2017 (Swedish Migration Agency, 2017 g). Sweden undertook

⁹ According to UNHCR resettlement guidelines (UNHCR,2011) one of the three durable solutions for refugees situation, that ends the cycle of displacement, is a resettlement in which refugees are selected and transferred from the country of refuge to a third state which has agreed to admit them as refugees with permanent residence status.

in the migration policy agreement signed in the end of 2015 to gradually increase the refugee quota number to reach 5,000 (Swedish migration Agency, 2017 g).

Asylum seeker status in the Swedish context is a legal status granted to persons seeking protection before the refugee status determination and legal assessment for their asylum claim is made in light of the Aliens Act (2005:714). This Aliens Act embeds the 1951 Geneva Convention's refugee definition. This legal status entitles its holder the asylum seeker to certain rights and duties in Sweden in light of the Geneva Convention and its protocol as it is going to be explained in the coming sections.

5.2.2 Asylum Reception

The Swedish Migration Agency has according the paragraph 2 in the reception law (LMA,1994:137) the responsibility for the asylum seeker reception and for this purpose the Migration Agency can run itself different accommodations, camps and facilities and it can instruct others to run them. According to The Swedish Migration Agency its reception units has several tasks such as the following (Swedish Migration Agency, 2017 h):

- To register asylum seekers and hand out all the relevant information and details of different stages regarding the asylum process and get their questions answered and their concerns heard;
- To distribute asylum seekers to the different available accommodation by the Migration Agency;
- To keep the contact with the asylum seekers during the waiting period and after the decision is being taken by the Swedish Migration Agency inside the Migration centre, facilities, camps .etcetera;
- To determine over the right to the daily allowance for the asylum seekers if they do not have the financial capacity to manage their lives;
- To inform them about the Migration Agency or courts' decision;
- To provide the returnees with the needed support to return.

From February 2018 the asylum application for the first time can only be submitted in three places in Sweden namely Stockholm, Malmö and Gothenburg. This is because the decreasing number of asylum applications and that has made it more effective to centralise the asylum applications in these three places according the Migration Agency available information (Swedish Migration Agency, 2018 h).

5.2.3 Asylum Procedures

The asylum process starts when the asylum seekers arrive at the reception in the Migration Agency centre and fill in a registration form. In fact, the asylum seeker fills this registration form with assistance of the interpreter during a short registration interview. During this registration interview the asylum seekers will answer in this form few open questions for example regarding the reasons for leaving the country of origin and not being able to return there and how he/she arrived in Sweden (Swedish Migration Agency, 2017 i). The European law (Article 5.1-2 EU Asylum Procedure Directive) stipulates that each asylum application and interview should be conducted in an individual way for each asylum seeker. The asylum process in Sweden had another model before when the asylum application would be submitted by a public legal counsel before the investigation interview where the asylum grounds and circumstances should be explained in advance. This has changed and nowadays it is not required to submit all these details by the public counsel before the investigation interview (UNHCR, 2011 a p25). The Migration Agency will assign a migration caseworker who will review and prepare the asylum application for the investigation interview and check the applicability of Dublin regulation (Swedish Migration Agency, 2017 i). There is no fixed time

for the waiting period between the registration interview and investigation one. Thus, Migration Agency queues have very long waiting period and it is different from one person to another (Swedish Migration Agency, 2017 i). According to the Swedish Migration Agency annual report the Migration Agency received in 2016 bigger budget (Swedish Migration Agency annual report 2016 a para5.2.1) with a purpose to shorten the waiting time for the asylum decision. However, the result was that average residency period within the Migration Agency reception system increased from 257 days to 500 days during 2016. With accordance to the same report several factors contributed to this situation such as the record number of open cases from 2015 and the Migration Agency's limited capacity to handle the asylum cases and take a decision, even though the Migration agency has recruited 2394 persons under 2016 (Swedish Migration Agency annual report, 2016 a para 4.2.4).

5.2.4 Identification Process

The asylum seekers leave their passport or other identification document which can prove who they are during the registration interview after they fill in the registration form (Swedish migration agency, 2018 h). Swedish Aliens act (2005:716, ch9, S8) obliges the asylum seekers to be photographed and their fingerprints to be taken regardless if the application is related to asylum or job. This obligation does not apply for the asylum seekers under 14-year-old. The Migration Agency will use the asylum seekers' figure prints in order to investigate if the asylum seeker has sought asylum somewhere else within the Schengen zone and then if Dublin regulation can apply in the asylum seeker case (Swedish migration, 2018 i). The asylum seeker is legally obliged to inform the Swedish authorities including the Migration Agency who he or she is, name, citizenship and the country of origin (Swedish Migration Agency, 2018 i). In fact, the Aliens Act (2005:714), Swedish citizenship Act (2001:82), and Swedish Pass Act (1978:302) do not have a definition for the identity. However, some of citizenship related case law have indicated that identity consists of applicant's name, date of birth, and citizenship (Dominika Borg, 2014, p337).

5.2.5 Information about the Asylum Process

Para 10, section f in chapter 8 of the Aliens Act Ordinance (2006:97) instructs the Migration Agency to inform the asylum seeker about their rights and duties and the consequences of non-compliance or non-cooperation with the authorities. Accordingly the Migration Agency should provide asylum seekers with all the relevant information regarding the organizations or group of persons who offers legal counselling and other information concerning the housing's conditions and health care system. This information should be in written and in a language which asylum seekers can understand and it could be oral if there is a need in some cases (section 2 ordinance on the reception of asylum seekers). The Swedish Migration Agency usually organizes information group sessions for the asylum seekers where they get all relevant information about Swedish laws, authorities and non-governmental organisations that can support them for free (Swedish Migration Agency, 2017 i).

5.2.6 Public Legal Counsel for Asylum seekers

The Aliens Act (Cha18, para 1) provides the asylum seekers with Public legal counsel unless it is assumed that there is no need for the legal assistance. The Migration caseworker usually assesses the asylum seekers' need for a Public legal counsel (Swedish Migration Agency, 2017 i).

5.2.7 Housing for Asylum Seekers

The Migration Agency is in charge to provide temporarily accommodation to the asylum seekers during the waiting period through its accommodation centres (LMA, 1994:97, para 2).

Thus, the Migration Agency offers and pays for the accommodations if the asylum seekers cannot manage theirs and this is their right in light of section 14 in the reception law (LMA, 1994:137). In case asylum seekers have somewhere else to live than the Migration Agency accommodation such as at their relatives or friends' places, they have the possibility to live with them or anywhere else however they should just register their current address at the Migration Agency to keep the contact (Swedish Migration Agency, 2017j). However, the asylum seeker cannot choose or pick the type of accommodation provided by the Migration Agency that places them where it is available (Swedish Migration Agency, 2017 j). Safety atmosphere maintenance guides the Migration Agency's accommodation policy (Swedish Migration Agency, 2017 j). Single asylum seekers may share a room with other asylum seekers of the same sex while the family usually get a separate room. In addition, person with special needs and LGBTI person's request can be taken in to consideration for the accommodation (Swedish Migration Agency, 2017 j). One of the changes in the provisions in the reception law (LMA, 1994:137) entered into force in June 2016 and targeted the right of accommodation support for the asylum seekers after the negative asylum decision. As a result the right for the Migration Agency's accommodation ceases when the asylum application is determined and negative decision is taken and it cannot be appealed anymore and voluntary return period has run out and the asylum seeker is not a part of a nuclear family with children under 18 year (Regeringskansliet, 2015 c).

5.2.8 Access to the Labour Market

Asylum seeker did not have the right to work in Sweden before 1992 unless their asylum application and claim had been assessed, a positive decision was taken and their residency permit was granted. However, it was argued by several governmental propositions directed to the Swedish parliament to make it possible to the asylum seeker to work while waiting the decision for their asylum application in order to avoid passive waiting and unnecessary costs to the society (Borg Jansson, D.2015p 333).

Asylum seekers have the right to work in Sweden although they cannot meet the job permit requirements if they meet certain conditions. Thus, they are exempted from the general requirements which a foreigner is usually requested to have in order to obtain a permission to work in Sweden such as a valid passport or minimum salary at least 13,000 Swedish Kronor monthly before the taxes. This exemption from the job permit is called (AT-UND) and it is usually written in the asylum seeker card (LMA Kort) (Swedish Migration Agency, 2017 k). According to para four in chapter five of Aliens Act Ordinance (2006:97) the required conditions for an asylum seeker to obtain this exemption are as follows:

- If the asylum seekers have submitted an acceptable identification documents or he or she has been able to identify themselves in other ways, and;
- If the asylum application is going to be processed in Sweden. This means that the Dublin Regulation is unlikely to apply and there is no possibility for the asylum seeker transferring to another European Union state member in light of the European Parliament and Council (EU) ordinance (604/2013), and;
- If the asylum seekers have well-founded asylum claim and it is unlikely to be deported or expelled with immediate enforcement. In light of section 19 in chapter nine of the aliens act (2005:716) in some cases for example the Migration Agency can decide to reject some asylum claim with immediate execution force because it is not well-founded. This can happen if it is apparent that there are no asylum ground or other types of legal grounds of a residency permit (Swedish Migration Agency, 2016c).

5.2.9 Asylum Seekers' Activities and Professional Training

While waiting for the Swedish Migration Agency's decision regarding the refugee status the asylum seeker has the right to participate in different meaningful activities (LMA, 1994:137, Para 4). The Migration Agency used to be responsible to provide such activities that could be Swedish language learning and education, management of the Migration housing or any other types of activities which can make their waiting period meaningful (LMA, 1994:137, Para 4). However, in December 2016 the Swedish government proposed to the parliament several regulations concerning what is so called the early actions (Tidiga insatser) for these activities provided to the asylum seekers and persons granted the residency permit but still live in the Migration Agency housing (Regeringskansliet ,2017 c). On 1th February 2017 the ordinance (2016:1363) about the county administrative boards' mission regarding the actions for the asylum seekers and newly arrivals entered into force. As a result the County administration authorities (Länsstyrelserna)¹⁰ have been given by the Swedish government the mission instead of the Migration Agency to run and coordinate these early actions (Regeringskansliet, 2017 d). The County Administration Authorities defines these early actions as activities and undertakings that have as a goal to promote the targeted group's knowledge in Swedish language and knowledge about the Swedish society and job market and health care system (länsstyrelsen, n,d,a). The County administration authorities can grant and decide over the governmental grant to these activities and undertakings for the asylum seekers (länsstyrelsen, n,d,a). The county administrative authorities have 149 million Swedish Kronor as a budget for 2018 (länsstyrelsen,n,d,a). These grants can be only given to support the previous taken actions in promoting above-mentioned goals related to the knowledge in Swedish language, Swedish society, job market, and health care system (länsstyrelsen,n,d,a). However, this budget cannot be used to activities and undertakings related to vocational training (länsstyrelsen, n,d,a). Therefore there has been not clear if the vocational training places have disappeared for the asylum seekers.

The Swedish Migration Agency, Swedish public employment service (Arbetsförmedlingen), Folk Education Council (Folkbildningsrådet) have a central role in the given mission to the county administration authority as follows:

Swedish Public Employment Service has a task to map the asylum seekers' competences as a part of newly arrivals' competence mapping process that starts from asylum seeking period (arbetsförmedlingen, 2017 a). Swedish Public Employment Service has launched a new digital tool for competence mapping and to provide information about the Swedish society for this purpose. The asylum seeker him or herself can use this tool in their one language to write their curriculum vitae (CV) and automatically translate it (arbetsförmedlingen, 2017 a).

The Migration Agency's task here is to facilitate the asylum seekers participation in the activities and undertakings which are taking place under the early actions (Tidiga insatser) organized by the county administrative authorities through providing information regarding these activities and undertakings to the asylum seekers and at the same time subsidize their travel to attend and participate in these early actions (länsstyrelsen, n,d,a).

Folk Education Board is in charge in this context to strengthen the asylum seekers' Swedish language level and knowledge about the Swedish society. This will be through distributing the subsidies between the folk high schools (Folkhögskolor) and Sweden's ten study associations (studieförbund) (studieförbunden, 2017).

¹⁰ According to paragraph 1 and 2 of the ordinance (förordning med länsstyrelseinstruktion 2017:868) "on instruction for the the County administration authorities": in each county there is a county administrative board (länsstyrelse) responsible for the governmental administration in the county which will work towards achieving national goals in the county and promote the development of the county...etc

5.2.10 Health Care for Asylum Seekers

Sweden has a special legislation designated to deal with the asylum seeker health care service (Lag om hälsa och sjukvård asylsökande SFS, 2008:344). According to the paragraph eight of this law the asylum seekers have the right to the health care services in Sweden. However it is limited to the emergency situation which cannot wait and this includes general health care and dental care. When it comes to the health care for asylum seekers the county council (Landstinget) plays the central role in Sweden. Each county council is only responsible to provide health care services to the asylum seeker residents in its region (SFS, 2008:344, Para 3). Sweden offers all asylum seekers a free of charge health assessment after they apply to an asylum in Sweden (SFS, 2008:344, para 7).

The asylum seekers can get patient transportation compensation for their travel cost to and from the healthcare centre and the only thing needed to receive the healthcare is to show the asylum seeker LMA card (Swedish Migration Agency, 2017 l). The adult asylum seekers pay symbolic fees for the healthcare services in comparison to the real costs paid by the state to the county council and municipalities that include interpretation services and travel compensation too (Ordinance on the governmental compensation for asylum seekers health care, 1996:1357). According to the Migration Agency's information the asylum seeker pays only 50 Swedish Kronor (SEK) for each visit for example to the doctor at health care or dental centre. In case the health or dental care costs exceed 400 SEK during six months the asylum seeker is entitled for a special allowance by the Migration Agency if he or she can only provide the receipts as a proof. The cost for the health care and medicines in emergency cases are not included in the 400 SEK and the asylum seekers have the right to apply for a special allowance for this part. In addition the asylum seekers can still apply for compensation if the cost for the prescribed medicines exceeds 50 Swedish kronor (Swedish Migration Agency, 2017 m).

5.2.11 Daily Allowance for Asylum Seekers (Dagersättningen)

The same rule applies when it comes to the daily allowance, if the asylum seekers do not have their own money they have right to apply for a financial support at the migration centre where they get a bank card and information about the daily and other special allowances (Ordinance on asylum seeker reception, 1994:361, para 5).

The asylum seekers can lose their economic support and right to stay in the migration agency accommodations in light of the temporary limitations law (2016:752) in Sweden if they receive a negative decision regarding their asylum claim and deportation decision which cannot be appealed anymore and the deadline for the voluntary return expires (Swedish Migration Agency, 2018 j).

5.3 Next Steps After International Protection is Granted

According to the county council (länsstyrelsen) in Stockholm the asylum applicants are called newly arrivals after they have been granted a residency permit in Sweden and registered in a municipality regardless of the legal status for their residence permit if they have been granted refugee status or subsidiary protection one (länsstyrelsen, n.d.b) .

5.3.1 Housing and Municipality Reception for Newly Arrivals

When it comes to the housing and reception arrangements for the newly arrivals after they have been granted the residence permit in Sweden, there are several authorities involved in different ways. In fact, these arrangements for the newly arrivals have changed after the record number of the asylum applications in the end of 2015. The Swedish government suggested a new law in November 2015 to deal with the crisis. Therefore all municipalities have become

obliged to receive newly arrivals and offer them housing in contrast to the previous situation when the municipalities had the power to accept to do that or not before this law. This law (Lag om mottagande av vissa nyanlända invandrare för bosättning, 2016:38) has been applicable since March 2016 after the parliament's approval. The Swedish government has also issued several ordinances with instructions concerning a better mechanism and function of the newly arrival distribution, reception as well as the municipality reporting of the available accommodation from all over Sweden (Regeringskansliet, 2016 b). From 2017 the Swedish government has begun using the Swedish Migration Agency's prognosis to decide in advance over the distribution plan to the newly arrivals to the different parts of the country and quotas for each region (Länstäl) (Regeringskansliet, 2016 b).

This governmental plan and quota are based on three parameters, namely population's size in each region, the job market and needs there and the total number of asylum seekers and newly arrivals (lansstyrelsen, 2017 a). According the ordinance (Förordning om mottagande av vissa nyanlända invandrare för bosättning, 2016:39, para2) the Swedish Migration Agency provides prognoses regarding the newly arrivals' need for accommodation for each year in advance. Then the county administration authorities (Länsstyrelserna) in their turn decide in their regions the newly arrival number or quota (Kommuntal) for each municipality (newly arrival reception ordinance, 2016:39, S5). The newly arrival quota for each municipality is similarly based on the above-mentioned three parameters. In addition, the county administration authority takes also into its consideration the housing situation for each municipality in its region (lansstyrelsen, 2017 a). Newly arrivals, who arrange their housing on their own and move independently to certain municipalities, are not counted in this assigned quota by the county administration authority. In fact, a big number of newly arrivals usually arrange their own housing through their own contacts. Accordingly, the Migration Agency prepares its annual plan for each municipality after the county administration authorities have decided the newly arrivals quota (Kommuntal) for each municipality in its region (lansstyrelsen, 2017a). According to the ordinance (2016:39) the Swedish Migration Agency has become the referral authority from 1st January 2017 and is responsible for assigning an accommodation in certain municipality for the newly arrivals and sending them there. The Migration Agency used to share this responsibility with the Swedish public employment services before (Regeringskansliet, 2016 b). In 2017, 23 600 newly arrivals were assigned to the different regions of county administration authorities and these authorities have distributed in their turn the newly arrivals to different municipalities in their regions (Länsstyrelsen, 2017 b).

5.3.2 Education, Access to Labour Market and Professional Training towards Integration

Sweden has a special legislation (Lag om etableringsinsatser för vissa nyanlända invandrare, 2010:197) governing the resettlement issues for migrant newly arrivals between 20 and 65 years old. This law specifies the main involved governmental actors in the resettlement process for the newly arrivals in Sweden although these actors vary between governmental and non-governmental. According to this law **The Swedish Public Employment Service** is the main governmental authority in Sweden (2010:197, para 6). *The Swedish Public Employment Service* is guided by instructions in a governmental ordinance (2007:1030, para 6) which affirms its responsibility to provide the necessary support and actions and promote a quick and effective integrating possibilities for the newly arrivals in the job market. The newly arrivals has a right after their reception in the municipality to get an individual introduction plan (in Swedish etableringsplan) which is offered by *Arbetsförmedlingen* with different actions in order to facilitate and speed up the integration process (2010:197, para 15). The newly arrivals used to design this plan together with respective municipality and relevant companies or organizations (2010:197, para 7). This plan should include the following (2010:197, para 6):

1. The Swedish language education offered by the municipality to the adults or the equivalent education under the school law (2010:800);

2. Information program about the Swedish society;
3. Different activities which can facilitate and speed up the newly arrival's integration in the job life in Sweden.

In 2017 the Swedish government has introduced a new labour market policy through new regulations with numbers (2017:584) (2017:820) in relation with the integration plan (etableringsplan) (Regeringskansliet, 2017 d) ¹¹which is applicable from 1 January 2018 for those who start after January 2018. The new regulations aims to put a demand on the newly arrival side but simultaneously provide more suitable conditions for the SPES to achieve its mission (Regeringskansliet, 2017 d). According to the government released information these changes, reforms and stricter regulations are justified by the motivation of making the SPES's mission more effective and eventually newly arrivals can come faster into the job market or education programs in Sweden (Regeringskansliet, 2017 d). The same source emphasises that this approach reduces the SPES's time and effort on the administration and enable the SPES to focus more on actions which are more suitable to the newly arrival's different individual needs (Regeringskansliet, 2017d).

According to the same released information by the Swedish government the enrolled newly arrival in the introduction plan under these new regulations will from January 2018 experience several changes in comparison to the pervious situation, as follows (Regeringskansliet, 2017d):

1. He or she will be subjected to the same measures system as in the unemployed person case. This means that they can be warned to lose their allowance in short or long time for example if they do not cooperate to set up the action plan or do not submit the activities monthly report, etc (Regeringskansliet, 2017d).
2. The right to an integration plan (etableringsplan) will be replaced by the right to labour market policy program (arbetsmarknadspolitiskt program) and introduction program. This means the Arbetsförmedlingen will have more power to design and change the suitable action plan for each newly arrival in this program in the same way as in the case of any job seekers in Sweden (Regeringskansliet, 2017 d).
3. The integration plan used to last maximum for two years and it should have corresponded to full-time employment working hours unless otherwise specified (law about the integration actions for certain newly arrival migrants, 2010:197,S7). Under the new regulations the labour market policy program can last for 24 months full-time schedule or 36 months part-time schedule according to the designed action plan between the Arbetsförmedlingen and the participant in the program. The old system was problematic because there were wasted time and resources during the two years program because of the inflexibility in the 24 months schedule (Regeringskansliet, 2017d).
4. There is no longer any need for an assessment of the performance ability by the case worker at the SPES for the participant as it used to be the case under the previous regulations. The situation under the previous regulations had shown different problematic aspects. Accordingly all newly arrivals can participate in the integration program as long as they can make full use of some of the actions provided in the program. For example rehabilitation actions and activities can be from now on considered as part of the program as long as they correspond to the individual needs (Regeringskansliet, 2017 d).
5. The newly arrival participants in the introduction program under the new regulations have the duty to initiate and pursue certain education (utbildningplikt) which is assessed as needed to get a job which was not the case before. The SEFS is responsible to conduct the need

¹¹ Law about the responsibility for the integration actions for certain newly arrivals migrants (2017:584), ordinance about the integration actions for certain newly arrivals migrants (2017:820), ordinance about the compensation for the participants in the job market policy actions (2017:819). More information available <http://www.regeringen.se/artiklar/2017/11/fragor-och-svar-om-inforandet-av-det-nya-regelverket-for-etableringsinsatser-for-vissa-nyanlanda-invandrare/>

assessment in this regard. As a result the education that comes after the high school level (eftergymnasial utbildning) is also considered to be a part of the SEFS's actions from January 2018 (Regeringskansliet, 2017 d).

6. The Arbetsförmedlingen used handle the integration contributions or allowances and deliver them to the newly arrivals but this has changed from 1th January 2018 and **the Swedish National Insurance Company (Försäkringskassan)** is instead responsible for that (Regeringskansliet, 2017 d).

Försäkringskassan plays a central role in the integration process in general in Sweden and particularly in the introduction program from January 2018. The newly arrival participant in the introduction program has a right to get different establishment or integration contributions such as introduction benefit (etableringsersättning) and under certain conditions supplementary introduction benefit (etableringsinlägg) and introduction benefit for housing (bostadsersättning) (law about the integration actions for certain newly arrival migrants, 2010:197, para 15).

According to Försäkringskassan's released information (Försäkningskassan,2018,a) the newly arrivals, who start their introduction program after January 2018, receive 308 Swedish Kronor (SEK) per day for full time participation and 231 SEK before the program starts from Försäkringskassan. This amount is tax-free and it could be less if the participation is part time or if the participant receive a salary or another type of allowance during the same day. The participants, who have children under 20 year and still live and register with them in the same address and do not provide for themselves, are entitled for supplementary introduction benefit (etableringsinlägg). This benefit is 800 SEK for the family with under 11 year child and 1500 SEK for the family and this benefit is limited up to three children only. If the participant is single and rent an apartment alone he or she will be entitled for the housing benefit (Bostadsersättning). The number of the participants in the introduction program has reached to 69 519 with 54 % men and 46 % women in February 2018 (Arbetsförmedlingen, 2018 a).

One of the Swedish government's several initiatives to make use of the newly arrival skills and competences and integrate them initially in the job market and eventually in Swedish society is so-called fast track (Snabbspår). The idea of snabbspår was first introduced by the Swedish government during a round of triparti talks in Marsh 2015. The purpose of this talk was mainly to bring together the Arbetsförmedlingen, other job market's partners and other governmental authorities in order to find the best form and actions to utilize the newly arrivals' competences and skills where there was shortage and needs in quick and efficient way (Regeringskansliet, 2017 e). The Arbetsförmedlingen offers under the snabbspår various activities and actions such as different vocational and language training, apprenticeship, validation of previous home education and supplementary education in a coherent process (Arbetsförmedlingen, n,d,a). According to the *Arbetsförmedlingen's* follow-up report in December 2017 there were about 5300 newly arrival participants in the snabbspår and there were 14 identified fast tracks within the Swedish industries and job market where there were shortage of labour (Arbetsförmedlingen, 2017 b).

The newly arrivals have the choice after the introduction program to continue their studies or even not follow the introduction program and pursue their studies which is not under this program and benefit from **the Swedish Board of Student Finance (CSN)**. CSN is the public authority that manages student aid and home equipment loans (CSN, 2018). The newly arrivals can receive a grant and borrow money for their studies from the CSN which is called student finance and this includes borrowing money to buy furniture for the apartment (CSN, 2018).

5.3.3 Family Reunification¹²

One of the main changes in the migration system in Sweden, which was proposed to tighten by the new amendments in 2016 in order to decrease the number of asylum seekers (Regeringskansliet, 2016 a), was the possibility for the family reunification for the different international protection beneficiaries. In fact, the possibility for the family reunification depends on a number of factors namely the legal status and the asylum application's date (Swedish Migration Agency, 2018 k). First, the newly arrival can be reunited with the unclear family members if he or she has been granted a permanent or a temporary residence permit on the basis of refugee status. The newly arrivals with refugee status have only three months to apply for the family reunification if they applied after 24th November 2015 which starts after status is granted. Second, if this newly arrival sought asylum in Sweden before 24 November 2015 and was granted a subsidiary protection status, can still apply for family reunification. However, if a newly arrival sought asylum in Sweden after 24 November 2015 and was granted a subsidiary protection status, the family members cannot be reunited unless the maintenance requirements are met (Swedish Migration Agency, 2018 r). There are some exceptional situations, i.e. serious health condition, human trafficking or if the Swedish obligation under international law can be considered as violated which the judiciary system in Sweden has not interpreted yet in light of the European Commissioner for human rights report, (Commissioer for Human Rights, 2018, p12). Newly arrival refugees, who arrived in Sweden as a part of UNHCR refugee quota, can be reunited with their family members if they apply also within three months regardless if they have applied after November 2015. Thus this means that the new limitation on residence permit regulation (2016: 752) does not apply in their case when it comes to the date of application and the maintenance requirement which apply in the case of asylum seekers who applied inside Sweden and its boarder after 24 November 2015. (Swedish Migration Agency, 2018 k).

5.4 Regular Migration

One of the principles that the Swedish Aliens Act (2005:716) originally sets is that it is only the Swedish citizens that have the absolute right to work and live in the country. This can be noted all the way back to the law of migration from 1950s in which the citizen is the main rights bearer (Wikren& Sandesjö, 2006 a p45). However, by the time this has extended to certain groups of foreigners that have been granted more or less absolute right to reside in the county with a permanent residency (Wikren&Sandesjö, 2006 b p45). A typical historical example of this is the situation for refugees and other migrants in need of protection where they were granted permanent residency for the most part of recent modern history. This however has changed to limited residency due to the temporary bill introduced in 2016 (Law on temporary limitation 2016:752). In order to reside lawfully in Sweden a person, whom is not a national, must have either a visa or a residency, and both of these may be either short- or long term.

5.4.1 Visa application

The regulations for visas are stipulated in the second chapter, third section of the Alien Act (2005:716). The visas are, according to the law, to be temporary, it may be as short as 7 days up to years depending on what is the legal basis for the visa and from which country the applicant comes from. This latter condition depends on what individual agreement Sweden may have with a country. In addition to the duration of the visa, depending on the original country it might differ in how the individual process is performed. In some individual countries the visa might be granted upon arrival, due to certain bilateral agreement such as that between the United States and the European Union, whereas in most situations the applicant must

¹² According to the Swedish Aliens Act (2005:716, ch5, para3) family members who can be reunited with their family in Sweden, are the spouse or registered cohabitant, the unmarried under 18 child and parents in case the applicant is under 18 years old. (Swedish Migration Agency, 2018 r)

apply for visa on beforehand. A visa may be given for several different reasons, however these categories are fixed for all nations, such as visa for study, for tourism, for business, for visiting close family member etc. The abovementioned paragraph also underlines the fact that a foreigner that is traveling into or will reside in Sweden shall have a visa. The exceptions are if he or she does not already have a residency, is a citizen of another European Union or considered as a long term resident. This latter legal term is used for third-country nationals that previously have been lived with a residency within the European Union during a minimum of five years and have the status in accordance to EU legislation (EU directive 2003/109/EG). A person that is with this status is considered equal to any other citizen and is protected under the same rights.

There are other few exceptions to the visa rule, for example citizens of the Nordic countries are not in need of visas to enter Sweden. In the second chapter also in the Aliens Act, Section 8 states that citizens of Denmark, Finland, Norway and Iceland are exempted from the visa requirement. The same applies as explained above to EU-citizens that already have long-term resident status.

Because of Sweden's membership in the EU and in particular the operational part of the Schengen agreement there is a fundamental principle of *uniformed issuing of visas*, as it is considered to be a part of a uniform visa system throughout the European Union. This idea was laid down as a general goal for the European Union, already in 1995 by the council of ministers (Regulation (EG), Nr 2317/95). It was commonly decided which countries in the world from where their citizens need apply for visas before entering any of the member states.

Historically Sweden started requesting visas from foreign nationals during the Second World War (Wikren& Sandesjö, 2006 c p67). After the end of this war the process was reversed and an increasing number of foreign nationals did not require visas to enter the county. This development was however halted already in 1976, when Turkish citizens that previously did not need visas, was required to apply before entering the country (Wikren& Sandesjö, 2006 d p67). The reason for this legislation was, already at this time, to limit the amount of migrants coming. Because of the very same reasoning, the obligation to have a visa for entering Sweden has extended to most countries in the continents of Africa and Asia (Wikren&Sandesjö, 2006 e p67). Furthermore, the latest temporary law in the area of migration have explicitly mention the sole reason for its creating is to limiting the number of migrants being able to enter Sweden (Regeringskansliet , 2016 f). Another reason given to this more stern and restrictive legislation is that it will also create some space in the Swedish refugee system (Regeringskansliet, 2016 a). The action had thus had two main reasons, to with force limit the number of asylum seekers, and two at the same time to improve the capacity in reception and establishment of the migrants. The Swedish government seeks for a more even distribution of asylum seekers in EU, this as the legislation previously have been more generous compared to that what had been demanded by the EU. In order to encourage more asylum seekers to seek refuge in other member countries the lawmakers, have temporary adjusted to the minimum standard according to EU and international conventions (Regeringskansliet, 2016 a). This is a clear downsizing in the standard and rights traditionally given by Sweden to migrants and people in need of protection.

The Swedish policies around visas as well as the recent change are not uncontroversial. During several occasions during both recent times as in the past, it has been pointed out that the usage of visas have as a consequence that individuals in need of international protection are hindered from applying for asylum. As the refugee definition clearly states that a person need to be in the country of asylum in order to apply for it, meaning that a person cannot apply

for asylum outside Sweden. This means in reality that the right to apply for asylum, can be argued that for most people remain an illusion (Wikren& Sandesjö, 2006 f p67).

5.4.2 Residence Permit based on Protection grounds

When it comes to residence permits there are those that are temporary and those that are permanent. With the introduction of the temporary limitation legislation from 2016, (2016:752) there are now a higher number of temporary residences with limited application. Sweden grants, as it was above-noted, two types of temporary residences namely 13 months residence permit for beneficiaries of the international protection and 3 years residence permit for those with 1951 refugee status. Quota refugees, who are sent to Sweden through UNHCR's resettlement program, are the only asylum seeker group still being granted a permanent residency after the introduction of the temporary limitation law in 2016. In general it can be stated that Sweden has gradually moved from issuing permanent residence toward an increased use of temporary residence permits. The temporary law from 2016 solidifies this new direction which has now been turned into a general rule.

If a foreign national has a residency there is no need for a visa entering or leaving Sweden. As in the case of visas, citizens of the Nordic countries do not need a residence permit (Aliens Act, 2005:716, ch 2, para2).

5.4.3 Family Reunification Based on Newly Established Family Relationships

There is a principle in Swedish law that entails a temporary residency, not permanent, is given for newly established relationships (Wikren& Sandesjö, 2006 g p71). The principle means that a foreigner can be given a temporary residency due to marriage or common law marriage to Swedish citizen or permanent resident in Sweden at the first decision in order for them to live together in Sweden. Permanent residence can then be applied for, and given after two years from the initial decision, in case the relationship is still a reality (G,Wikren&H, Sandesjö, 2006 h p71). This legislation has in some cases proved to be challenging when for example individuals have stayed in domestic violence relationships in order to be able to attain a permanent residency since if the relationship is ending before the stipulated two year the person must directly leave the country. This has been an on-going discourse on how to best protect individual's rights during this regulation (Riksdagen, 2005).

5.4.4 Work Permit Application

As visas, are required to enter Sweden a residence permit is needed to enter and to stay in the country, a work permit is further needed if a person outside the EU legal framework wishes to work inside the EU. This requirement for a work permit when working in Sweden is needed regardless if the work is based on employment inside the country or from abroad (Wikren& Sandesjö, 2006 i p46). Historically, Sweden has had as a guiding principle aimed to control the number of foreign labour that enters the Swedish labour market (Wikren&Sandesjö, 2006 j p46). This control aimed to, among other things, protect the need of Swedish workers and of the foreign worker already working in the country. Another important principle is to maintain the principle that foreign workers entering the country should be protected and given the same conditions as the workers that are already here. In short it is also a way to protect the Swedish model on the labour market where collective bargaining is an essential part (Wikren& Sandesjö, 2006 k p46). It is clearly stated in the background papers to the law that it is not only related to the conditions of the actually work, but also the overall living conditions as such should be acceptable and in comparison to the conditions under which the Swedish nationals working in the same way are subjected to (Wikren& Sandesjö, 2006 l p46).

As a general rule, to qualify for a work permit you need to already have been offered a job before entering Sweden. There are exceptions to this rule when it comes to for example asylum seekers, EU-citizens and citizens of other Nordic countries. For most other groups of migrants it is not possible to get a work permit in order to come to Sweden to look for work, there has to be a concrete job offer before entry. In general a permit is issued for two years, and is tied to the specific work and employer that is offering you the work (Swedish Migration Agency, 2018 l).

There is challenge in relation to this regulation as the employee is in a weak position and then very depended on the employer for any possibility of a continuation after the initial two years have passed. There are a certain conditions that need to be met when applying for a work permit. Initially, the first condition is that the applicant needs to have a valid passport. This is in order to be sure of the identity of the person and its possibility to actually travel to Sweden, but also to leave the country (Swedish Migration Agency, 2018 l). The work that is offered must contain condition similar to that which is the norm in the profession or, in accordance with collective bargaining agreement (Swedish Migration Agency, 2018 l). The employment must offer enough salary for survival and it must, regardless of which area, be at least 13 000 Swedish Kronors (Swedish Migration Agency, 2018 l). Lastly, the employer in Sweden must provide all the needed insurance when the employment starts. Lastly, these conditions must all be meet in one single job, it is not possible to add several position together in order to reach the other requirements (Swedish Migration Agency, 2018 l). After the first two years have passed it is possible to request extension. During this process the Migration agency will make sure that all the above-mentioned criteria have been met over the two years. The individual employee must therefore submit all needed documentation to show the actual size of salary to have been paid, together with the insurances etc (Swedish Migration Agency, 2018 l). As is clear, this regulation, similar to that of newly established family reunification, put the individual migrant often in a rather vulnerable position, and there are risks of exploitations.

5.4.5 Residence Permit Based on Educational grounds

According to the Swedish Aliens Act (Ch 5, para 10) education can be a ground for temporary residence permit and later on it can become a reason for permanent residence permit (ch5, para 5). This can happen if a foreigner has been given a study residence permit for doctoral study at PhD level for four year in total during the last seven years.

Any type of study in Sweden for more than three months requires a residence permit for a foreigner before being able to travel and enter Sweden otherwise a study for less than three months requires only visa (Swedish Migration Agency, 2018 y). Obtaining a study residence permit requires a valid passport, admission into full-time study course at a Swedish university or college, financial maintenance requirement along with comprehensive insurance during the residence period in Sweden. In addition, this study residence permit entitles for family reunification. (Swedish Migration Agency, 2018 t). In addition, a foreign student can still apply for six months residence permit after finishing his or her study in order to look for job or start his or her own company in Sweden. This six months residence permit requires the above-mentioned requirements besides staying and not leaving Sweden after finishing all the required courses within that study program at university or college which has been at least two semesters (Swedish Migration Agency, 2018 u).

5.4.6 Reasons for Rejection or Withdrawal of the Residence Permit

According to the chapter seven in the Swedish Aliens Act (2005:716) any permit, may it be residency, right to work or a visa or asylum claim, may be revoked if a foreigner knowingly gives wrong information about their identity or other important parts of their claim, or if the foreigner knowingly does not disclose information that may have been of importance when

they were given their permit. This regulation, in which a foreigner knowingly given wrong information or omitted important information essential to the case, have existed in several different laws regulating different migration aspects. The fact that a foreigner has given wrong information or not disclosed the truth can in many cases be assumed to be intentionally done with the purpose to get the application approved (Wikren&Sandesjö, 2006 m ,p265). Naturally there are cases where wrong information may be given because of other reasons without that the individual actually understand or can be expected to understand that this may affect the outcome of the application (Wikren& Sandesjö, 2006 n p266).

5.5 Irregular Migration

5.5.1 Definition of an Undocumented Migrant

The term of undocumented migrants is rather complex. In the Swedish debate, terms to describe the same group of migrants have ranged from rather politically charged illegal migrants, to “papperslös” a term literally translated in the French language e,i ”sans paper” meaning without papers (Stadsmissionen,2015).

A human being can never be illegal for why the term illegal nowadays is seldom used in the mainstream discussion in Sweden. Still, the term “without papers” does not always show the complexity of things. Using this terminology it may sound as if the person have no identity, which is not the intending meaning. Often this group of individuals have many different documents, but just not the right one when it comes to residency or visas as described above.

The word currently used, ”undocumented” is not either completely accurate as certain parts of this group actually, to a certain degree, are documented by the government in which they reside, this even if they don’t have all the documents needed for residency. A term to be used could be is a migrant without legal residency as this describes the current situation of the individual. This is also the way the government in most cases choose to describe the group. There are many different ways to become undocumented and in some cases the individual is previously documented, in some not (Stadsmissionen, 2015).

An undocumented migrant may refer to a person that has been rejected on their application for asylum, but still chooses to remain in the country. It may also be individuals that stay in Sweden after their visas or other type of permit have expired. These groups have at one point been registered in the country because they have approached the government before they became undocumented. This has usually been done either as an asylum seeker or a person that had been granted the right to stay for a limited time for some other reason.

Then there is another group of migrants that truly has never been documented by the authorities. This is a group that on unconventional ways, without the deduction of the authorities, entered the country, it may be by smuggling or as a victim to human trafficking trade. Another group that may or may not be known by the government in the country is children born in Sweden to already undocumented parents (Stadsmissionen, 2015).

Regardless to the reason of the irregular legal situation of this group one thing is fundamental, they are all in principle in the same vulnerable situation as they are in constant danger of deportation, but also many other forms of exploitation while still in the country. It is also vital to emphasise that when the term without papers (Papperslös in Swedish and sans pairs in French) is used for this group it does not mean that the person necessarily does not have a valid passport or ID from their own country.

5.5.2 Human Rights Regime in the Case of Undocumented Migrant in Sweden

United Nations Universal Declaration on Human Rights states that “all human beings are born free and equal in dignity and rights”. These fundamental premise human rights applies to all human beings regardless of Citizenship, independently of what specific status a person has, or if that person is living with a legal residency or not i.e. is considered to be undocumented. Sweden has ratified the vast majority of these international conventions and accepted the responsibility to respect and safeguard the human rights laid down therein.

The United Nations has during several occasions criticized Sweden when it comes to the human rights of undocumented migrants. For example, the UN child rights commission¹³, UN Special Rapporteur on violence against women (2007, A/ HRC/4/34/Add)¹⁴ and UN Special Rapporteur on the right of health (2007, A/HRC/4/28/Add.2).¹⁵ The latter report emphasises the fact that undocumented migrants are a particularly vulnerable group in Sweden and that their rights are not sufficiently protected.

After this criticism as well as after pressure from the civil society, there were some moves to safeguard some of the undocumented migrants' rights. In 2013 it was decided to increase the certain rights of this group, in particular the right to health and the right to education.¹⁶

5.5.3 Right to Health Care for Irregular Migrants

Sweden has a special regulation regarding the health care for certain foreigner who their asylum applications have been rejected but still resides in Sweden without the required residency (2013:407, 2013). According to this Swedish law Undocumented children and youth under 18 years have the right to health care and it is free of any fees. They are entitled healthcare and dent care on exactly the same conditions as other children and youth residing in the same local governorate. Undocumented adults, meaning individuals above 18 years, have , according to the same law that apply for asylum seekers, right to subsidized health care and dentistry that, according to individual medical assessment, cannot wait (2013:407, 2013). What exactly constitute the meaning of health care that cannot wait is not defined but up to the individual medical stand in each separate case in light of the National Board of Health and Welfare (Socialstyrelsen) report concerning the undocumented persons' right to health care (2014). Some of the cases, which can be legally considered health care that cannot wait, can include the maternal care, family planning and medical advice with abortion is included. Any medications that are connection to this and recommended by physicians are also subsidized (Socialstyrelsen, 2014).

¹³ UN Committee on the rights of the child (2011), Consideration of reports submitted by States parties under article 12(1) of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography Concluding observations: Sweden, 23 January 2012CRC/C/OPSC/SWE/CO/1

¹⁴ UN Human rights Council (2007), Report of the Special Rapporteur on violence against women, its causes and consequences, Yakin Ertürk Addendum MISSION TO SWEDEN. Mission to Sweden, 6 February 2007, A/ HRC/4/34/Add.) <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G07/103/04/PDF/G0710304.pdf?OpenElement>

¹⁵ UN Human rights council (2007), Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Mission to Sweden, 28 <http://www.refworld.org/docid/461fa3f42.html>

¹⁶ (Skolgång för barn som ska avvisas eller utvisas, SOU 2007:34, 2007) school access for children who will be rejected and deported. (Skolgång för alla barn, (SOU) 2010:5 ,2010) school access for all children , and the law about the health care for certain foreigners who reside in Sweden without the required residency (lag om hälso- och sjukvård till vissa utlänningar som vistas i Sverige utan nödvändiga tillstånd.2013:407, 2013)

5.5.4 Right to Education for Irregular Migrants

When it comes to the right for education and access to school Sweden has a special legislation for Children who are in the process to be rejected and deported (Skolgång för barn som ska avvisas eller utvisas SOU, 2007:34, 2007) and another one for all children (Skolgång för alla barn, SOU, 2010:5, 2010). According to these two legislations the children of asylum seekers as well as undocumented parents have the right to education and access to school. This means that any children to undocumented between the age of 6 and 18 years have legal right to access the education system. However, this right does not mean that the children are under legal obligation to do so. This means that when a child turns six years they can access the introduction to school (in Swedish sexårsamverksaheten), and if a child starts high School (in Swedish gymnasiet) before the age of 18 years, they also have the right to complete their education, even if that person might turn 18 during the period in school.

5.6 Unaccompanied and Separated Seeking Asylum Children “Unaccompanied Minors”

The unaccompanied minors have been one of the biggest asylum seeker groups that has drawn much attention during the latest years in Sweden. This has been particularly apparent since 2015 when more than 34 000 unaccompanied minors arrived in Sweden which is 36 % of the 96 000 arrived in EU and sought asylum in 2015 (Eurostat, n.d). According to the Swedish law an unaccompanied minor asylum seeker (ensamkommandebarn) is a under 18 year age who has arrived in Sweden after he or she has been separated from both parents or from any other adult persons who may have been in the parents’ position or the separation took place after the arrival in Sweden (LMA, 1994:137, ch1, para b).

Figure 3. Number of five biggest groups of unaccompanied minors sought asylum in Sweden 2011–2017 (Statistics Sweden, n.d.b.)

Number of children by sex, age, country of citizenship and year

sex	age	country of citizenship	2011	2012	2013	2014	2015	2016	2017
boys and girls	total	Afghanistan	1693	1940	1247	1547	23480	665	222
boys and girls	total	Somalia	251	452	576	1118	2058	421	159
boys and girls	total	Syrian Arab Republic	..	120	364	1233	3777	180	159
boys and girls	total	Eritrea	64	105	345	1456	1939	74	52
boys and girls	total	Iraq	64	50	48	84	1097	93	52

5.6.1 Unaccompanied Minors Identification as a challenge in Sweden

Although the asylum seeker can be minor and unaccompanied, the Migration Agency still needs to know who the asylum seeker is, his/ her name, date of birth, where he/she come from, and the parents’ names (Swedish Migration Agency,2017 n). According to the Aliens Act the Swedish Migration Agency shall take the identification documents from the asylum applicants and preserve them during the waiting period before the final decision (2005:716, ch9, S4-5). Some of the biggest challenges Sweden has faced in relation to the asylum unaccompanied minor seekers are related to the identification and age assessment for

different reasons. As the above table shows the biggest group among the unaccompanied minors comes from Afghanistan. The latest report of the centre for country of origin and analysis in the migration area (LIFOS), published on 24 January 2018, affirms the existence of substantial deficiencies in the population registry system in Afghanistan including the issuance system of the identification card which is called TAZKIRAH (Swedish Migration Agency, 2018 m). According to this report this Afghani ID card is of low value as evidence since it is very easy to forge and it has low level of security features and the issuance process is not clear (Swedish Migration Agency, 2018 m). According to the Migration Agency (2018 m):

“The lack of reliable population registration and methods of issuing identity documents continues to mean that Afghan identity documents are unable to support the holder’s identity to the extent required in cases concerning Swedish citizenship”

Furthermore, birth registration process in Afghanistan does not seem to have been accurate when it comes to the date of birth and place (Swedish Migration Agency, 2018n). In addition, the generous advantages of being unaccompanied minor asylum seekers in Sweden because their parents or caregiver did not follow them as well as the lack of knowledge and accuracy regarding the date and place of birth have encouraged a number of adults to claim that they are underage.

On 11 February 2014 the Supreme Migration court took a key decision in a case of minor asylum seekers from Afghanistan concerning the proof burden of the unaccompanied minors’ asylum claim and identity. In this judgement the Supreme Migration court confirmed its previous one (A v Migrationsverket, MIG 2007:11) stating that the minor asylum seeker has the burden to prove his/her identity and this also includes the underage status. It also added that a written evidence should be taken first as a relevant evidence while oral information can be supplement to the written evidence or in case it is not missing. In addition, the court in the same judgement stated that it was meaningless to carry out an authenticity check of the Tazkirah since the basis for these Tazkira’s issuance cannot be controlled (LIFOS, n,d,a). Thus, the hot debate has been ongoing in Sweden about the most reliable way to assess the real age of the unaccompanied minor applicants.

5.6.2 Medical Age Assessment for Unaccompanied Minors

As a result to the above-mentioned challenging situation medical age assessment was presented as an alternative and solution for the identification and burden of proof questions. The Swedish government has given the National Board of Forensic Medicine the mission to conduct the age medical assessment in the asylum cases (Rättsmedicinalverket (rmv), 2018). The National Board has clarified how the medical assessment is being conducted and its accuracy when it comes to the legal assessment. So according to the National Board there is no medical methods which can ensure the exact age of a person but there are several methods which can estimate the older (rmv,2018). This medical assessment consists of X-ray to the wisdom teeth at a dental clinic and to one of the two knee joints with a MRI scanner (rmv, 2018). According to paragraph 18 in the chapter 13 of the Aliens Act (2005:716) the medical age assessment is not obligatory and the unaccompanied minors can choose to do it voluntarily and it needs also a written consent from the side of the unaccompanied minor. However, according to paragraph 10, section h in chapter 8 of the same act the unaccompanied minor’s refusal to conduct the medical age assessment without a reasonable explanation can lead to the assumption that the age of unaccompanied minor is 18 years old or older. The Swedish government suggested to make changes in the Aliens Act concerning the age assessment of the unaccompanied minors who could not provide any kind of identity documents before the investigation interview date. The motivation for these changes is to keep the safe and consistent environment for the migration accommodation where adults are not

mixed with children in the same place. In addition the allocated resources for children are only used for children (Regeringskansliet, 2017f). These changes have been applicable from the first of May 2017 and retroactively to the asylum applications submitted from 1 February 2107 (Swedish Migration Agency, 2018 o). These changes have been added to chapter 12 paragraph 17§18 in the Swedish Aliens Act (2005:716). Thus, according to these paragraphs the Migration Agency shall initiate an early but temporary age assessment process before the asylum investigation interview. The Migration Agency used to register the given age by the unaccompanied minor if he or she did not have any identification document and wait until the investigation interview to conduct simultaneously the age assessment. After these changes the agency has the power to assess the unaccompanied minor age if it is not clearly apparent that she or he is a child or adult (Swedish Migration Agency, 2018 o). The agency can conclude this assessment through a short age investigation interview where different questions can be asked regarding the date of birth or through a medical age assessment offered by the Migration Agency if the unaccompanied minors cannot prove their underage status. The Migration agency's age assessment is of temporary nature which means that there is still the final assessment during the asylum investigation interview at the end (Swedish Migration Agency, 2018 o).

The legal department and the quality department in the Swedish Migration Agency have conducted a common thematic follow-up report (2016 d) concerning the quality of the initial age registration for 145 cases during the period between 1 January and 1 July 2016. According to this report of these two departments the age was not sufficiently investigated in 60 % of the cases. In addition, 43% of the asylum applicants in the investigated cases were not informed by the Swedish Migration Agency that they have not been able to prove likelihood of their underage status before the decision has been taken their cases in order to do more efforts to prove it (Swedish Migration Agency, 2017o).

5.6.3 Human Rights Regime in Sweden for Unaccompanied Minor

Sweden has been a signatory of the UN Convention on the rights of the child since 1990 which has been applicable and consistent with the Swedish law since then (Regeringskansliet, 2017 g). However, according to the Swedish government's released information several have showed that the children rights in Sweden have not been effectively embedded or implemented in the legal system. As a result the Swedish government has proposed to incorporate this convention as a part of the Swedish law as a forward step to strengthen these rights effectively and this will therefore come into force in January 2021 (Regeringskansliet, 2017 g). Accordingly, all children in Sweden have the same rights and value (Child UN convention, 1990, article 2) regardless of their legal status in Sweden or if they have the Swedish citizenship or not.

5.6.4 Guardianship (Godman)

Sweden has a special legislation dealing with the guardianship (in Swedish *Godman*) for the foreign child after arrival in Sweden without one of the parents, both of them or any adult person who can be considered in the parent's position to take care of the child (Lag om god man för ensamkommande barn, 2005:429, para 1). According to this law the *Godman* can be assigned by the Migration Agency or the social services at the municipality where the child is residing and this should be as soon as possible (2005:429, para 2). In addition, the *Godman* represents the unaccompanied minor and takes the role and place of the guardian and trustee and this means take the responsibility for all the child's personal and legal matters in Sweden (2005:429, para 2).

According to the Swedish Association of Local Authorities and Regions (SKL) (2017,a), the *Godman* is not responsible for providing for the accompanied minors or for the actual care. In addition, the social Services Act (SoL, 2001:453) is applicable in the case of the unaccompanied minor in the same way as in the case of other Swedish children who lost their parents or the guardian who replaces their position. Accordingly, the responsible person in the unaccompanied child accommodation is in charge for the financial support and actual care and eventually the Swedish Migration Agency supplies the accommodation and the municipality and its social service costs (SKL,2017,b). The social secretary in the municipality has ultimately the main responsibility for the well-being of the unaccompanied minor in this accommodation (SKL, 2017, c). Some of the concrete services provided by the *Godman* to the unaccompanied minors can be accompanying and presenting him or her in relation to the contact with the Migration Agency, namely during the investigation interview, meeting with the legal public counsel or general health check-up (SKL,2017,d). The *Godman* will also manage the daily allowance and finance and everything related to school and health care (SKL, 2017e).

This guardianship ends automatically when the child turns 18 years or when he or she is granted an asylum in Sweden and then the court is responsible to assign a special guardian for him or her. The *godman* is a person with long experience and knowledge about the Swedish society, language, Aliens Act and asylum process beside appropriate characteristics to such assignment with children in vulnerable position (SKL, 2017 f).

5.6.5 Health Care Right for Unaccompanied Minors

The unaccompanied minors have right for complete health care, dental care and psycho-social services in Sweden in the same way as all Swedish children. In addition, these health care and dental care services are also free of charge (Swedish Migration Agency, 2018 q). Different psychological problems have been reported as a common problem among the unaccompanied minors in Sweden (Barnombudsmannen, 2017, c) such as suicide attempts (Commissioner for Human rights, 2017, p12). Swedish government has invested a big budget in order to deal with these problems since this psychological health has also been reported as problem among the Swedish youth and children (Regeringskansliet, 2017 h).

5.6.7 Summer Job for Unaccompanied Minors

According to the Migration Agency the asylum seeker children have right to do a summer job under certain conditions as follows (Swedish Migration Agency, 2017 t):

- 1) The unaccompanied minor should be 16 years old or older;
- 2) Exception from the job permit (AT-UND), which requires identification document by the unaccompanied minors, is needed too.

Unaccompanied minors under 16 years old do not need this exception (AL-UND) in order to start a vocational training, easy tasks and single assignments. However they still need their parents or their *godman's* consent (Swedish Migration Agency, 2017 t).

5.6.8 Child Asylum Seekers Detention and Supervision

According to chapters 10 and 11 in the Aliens Act (2005:716) in some cases the Swedish Migration Agency may consider putting asylum seekers, who are under or above 18 years old under supervision or even keep them in detention. A child asylum seeker may be put under supervision or kept in detention in light of the Aliens Act in the following situations (2005:716, ch10, para2-7):

1. If this child's entry application is likely to be rejected by the police authority, to be rejected with immediate enforcement by the Migration Agency or it is a matter of preparation and execution of such a decision;

2. If this child is not kept under detention, there will be an obvious risk that the child will hide or go underground and thereby the enforcement of the decision, which should not be delayed, is jeopardized;

3. If having this child under a supervision is not enough.

The supervision means in this context the foreigner' obligation to report about themselves to the police authority or the Migration agency at certain times and a decision on supervision shall specify the place where the notification obligation is to be fulfilled (2005:716, ch10, para 8). The Aliens Act does not permit to detain a child more than 72 hours unless there are specified grounds (2005:716, ch10, para5). According to the Migration Agency decisions to keep children in detention are almost never made (Swedish Migration Agency,2018 p).

6. REFUGEE CRISIS DRIVEN REFORMS

6.1 Reform Proposal Targeting Unaccompanied Minors

Responding up on the effects of the temporary measures taken by the government in late 2015, the most recent government reform proposal, presented 27 November 2017, encompasses three key elements: a prolongation of the temporary asylum law until July 2019, a revision of the asylum seekers right to arrange an own housing within the asylum seekers reception act, and a possibility for more unaccompanied minors to receive a temporary residence permit. These proposed changes mainly target the group of unaccompanied minors arrived in Sweden until 24 November 2015 (Government Offices of Sweden, 2017 a). The two following paragraphs will present the political background and the content of the reforms proposals in their current form.

6.2 Political Background

Until the end of 2015, a total of 35,693 unaccompanied minors had applied for asylum in Sweden, the highest notion ever recorded (Table 2). Until 27 November 2017, almost two years later, 28,400 had received a first instance decision from the Swedish Migration Agency.

The long wait for an asylum decision was a consequence of the large overall numbers of asylum seekers in 2014-2015 and a prioritisation of certain groups of asylum seekers (recognised refugees under the Geneva Convention) resulting in a long wait for the many unaccompanied children. Those who on arrival were registered as minors by the Swedish Migration Agency, but have due to long asylum investigation procedure turned 18 years old have been treated as adults and as a result of this, experienced difficulties in attaining residence permit (The Government Offices of Sweden, 2017a). Estimations show that the proposal will target between 8,000 and 9,000 young asylum seekers, although the exact number have not yet been established (TT, 2018).

The situation for the many young asylum seekers have received much attention in the public due to demonstrations against the continued deportations to Afghanistan, criticism against medical age assessment of asylum seekers and the high numbers of mental health issues reported among unaccompanied minors (The Ombudsman for Children in Sweden, 2017 d; Grill & Ohlin, 2017; Holmgren, 2018). Furthermore, many organisations and networks have been founded by professionals and volunteers encountering young asylum seekers in their everyday lives. Among others, the *Vi står inte ut* (We can't stand it) network aim to pressure the government to prioritise and grant the unaccompanied minors a fair asylum procedure (*Vi står inte*, n.d.).

The reform proposal is the result of a negotiation settlement between the two coalition government parties, the Green party and the Social Democratic Party. It was reportedly initiated by the Green party, who has plead for a review of the temporary law for the unaccompanied children since its initiation, as opposed to the Social Democrats who have sought to keep the law in its current format until its final year 2019 (Lindholm, 2017) . The Green party has long had internal discussions concerning the group of unaccompanied minors, many party members advocating for the reinstatement of the right to full family reunion (Abdukani, n.d.).

The Social Democratic majority party have during their time in the government opposed an adjustment, consistently putting emphasis on increasing the control of the migration flows to Sweden and promoting a prolongation of the temporary law until its third and final year in July 2019 (The Swedish Social Democratic Party, n.d.). The asylum seekers right to arrange an own housing has long been met with internal criticism within the Social Democrats, many district representatives calling for a revision or a dismantling of the legislation (Watz & Köse, 2017; Delby & Wrede, 2016).

Additionally, the reform proposal has met criticism from the other five parties in the parliament and the Council on Legislation (Lagrådet) that scrutinizes draft bills sent by the government. The criticism is mainly concerned of the reform proposal harming the continuity and resilience of Swedish migration policies (Council on Legislation, 2018). The opposition coalition *The Alliance* (Alliansen) consisting of the Moderate Party, the Centre Party, The Liberals and the Christian Democratic Party has pleaded to vote against the bill, with an exception for the Centre Party (Swedish Institute, 2018; The Centre Party, 2018). The Centre Party's announcement to support the reform proposal is in line with prior party statements calling for a political solution for the unaccompanied minors affected by the time-consuming asylum investigations (The Centre Party, 2018).

Furthermore, the Sweden Democrats with an outspoken migration agenda have announced to rule against the reform proposal (Lindhe & Marmorstein, 2018). As a result of the Centre Party statement to vote in favour of the government proposal, the Sweden Democrats, demanded the Moderate Party to leave the Alliance in a press release (The Sweden Democrats, 2018). The Moderate party leader Ulf Kristersson has replied to this demand, that the Moderate Party is not to leave the Alliance, although regrets that the reform proposal would lead to "irresponsible migration politics" (Kristersson, 2018).

The final decision to realise the proposal has not yet been passed through in the parliament, meaning that some changes in the requirements and limitations concerning the target group might still take place. However, as the Centre Party and the Left Party has pleaded to support the government's bill in the parliamentary voting 4 June 2018, the bill is likely to pass. And if it does pass, the government expects the legislation to be in place by 1 July 2018 (Government Offices of Sweden, 2017a).

6.3 Proposal Content

The proposal as presented by the government encompasses the following key requirements for unaccompanied minors:

- Registered their asylum application with the Swedish Migration Agency latest 24 November 2015
- Have waited for a Migration Agency decision for at least 15 months
- Have had their asylum application tried according to the temporary law (after 20 July 2016)
- Were registered as children on arrival
- Are currently undertaking or planning on pursuing studies on upper secondary level
- Are currently residing in Sweden
- Have not committed any crimes in Sweden (Government Offices of Sweden, 2017a)

The proposal encompasses a limited possibility for the individual asylum seeker to independently find accommodation in favour of a “dignified personal accommodation”-model (Watz & Köse, 2017; Government Offices of Sweden, 2017 a). The revision seeks to address the overcrowded and segregated housing situation that has been noted in a number of municipalities and districts (Swedish Social Democratic Party, n.d.).

7. CONCLUSION

Sweden has been known for its openness and solidarity for humanitarian causes on both the European and global level, particularly when it comes to the question of refugees. The Swedish generous model for migration and refugee management had until 2015 contributed to its classification as a destination country for asylum seekers. Sweden was rather unique until 2016 as it would grant a permanent residence for recognized refugees and to the beneficiaries of international protection. Sweden used also to keep supporting financially the asylum seekers even after the exhausting of all appeal stages until 2016. In addition, Sweden until today has never requested any maintenance requirement or certain language level for granting the Swedish citizenship as it is being done in other EU countries. This generous attitude, openness and solidarity in the migration and asylum management, which has been welcomed by the majority of Swedish population, has woken the opposite attitude in growing portion of the Swedes driven by fear and unknowingness for the next after the 2015 unprecedented refugee crisis. Massive political pressure on the minority government has forced it to change completely its asylum policy. This was not the first time a record increase in asylum seekers number in Sweden had led to more restrictive asylum practices and policies. A similar leaning was observed during the refugee influx following the conflict in the former Yugoslavia in 1992 (Human Rights Watch [HRW], 1996). However, the difference today with comparison to the 1992 situation is that this orientation of more restrictive policy has become stronger and permanent. The temporary restrictive measures in 2016 was supposedly temporary but they are likely to be extended. In light of the lack of solidarity and cooperation among European countries when it comes to the refugee matter and the increase popularity of the anti-migration party in Sweden different political parties have started competing in hardening the already restrictive measures before the general election in September 2018.

The different aspects of the Swedish Migration system, particularly after 2016, have remained positive, with some critic raised by some international humanitarian organizations and institutions in relation with Sweden's compliance with the European Convention on Human Rights and with the 1951 Geneva Convention.

In 2016 The United Nations High Commissioner for Refugee (UNHCR) was invited by the Swedish government to deliver its observations concerning the draft law proposal on restrictions of the possibility to obtain a residence permit in Sweden. UNHCR expressed its deep regrets and concern in its general observations stating (UNHCR, 2016, para 9):

“instead of implementing- in a spirit of solidarity and equal sharing of responsibility- the various decisions made by the EU in 2015, European States rather appear to be competing to restrict their national asylum systems in a race to the bottom”

UNHCR acknowledged in its same observations that Sweden has received the biggest number of asylum seekers during 2015 and 2016 since the Second World War and this number is one of the biggest in the European level (UNHCR, 2016, para 5-7). UNHCR also stated that the ongoing inability of the European countries and the lack of unity and solidarity in respond to the current refugee situation, has put Sweden in a position to restrict its asylum laws and policies to the lowest common standards permissible by the EU acquis on asylum (UNHCR, 2016 c para 10). Nevertheless, UNHCR expressed also its concern regarding the sent signal of the proposed restrictions as well as the Swedish ID controls on the border, to other states, especially the major refugee hosting countries in the world and European states that need to strengthen their asylum and integration capacity in order to receive higher numbers of refugees (UNHCR, 2016 para11). Several international human rights organizations' reports (Sveriges Radio , 2015 a), sensate a report by the commissioner for

Human Rights of The Council of Europe after his visit to Sweden in October 2017 (Commissioer for Human Rights, 2018), have expressed generally their concern regarding the family reunification limited possibility regulations in the new law (2016:752). In this report the commissioner shares the concern expressed by UNHCR that this temporary limitation law (2016:752) will significantly hamper the access to the family reunification (Commissioer for Human Rights, 2018). For example 85 % of the Syrian asylum seekers were recognized as beneficiaries of subsidiary protection or other forms of international protection and only five percent were granted a refugee status (Commissioer for Human Rights, 2018). This makes the possibility for the family reunification for those who applied asylum after 24 November 2015, depend on the maintenance requirements. This means it depends on their ability to be financially sufficient and to have a suitable accommodation to the family member's number (Sveriges Radio, 2017 a) which seems even difficult for the local residences in Sweden in light of the current housing situation.

Sweden has a long history of rule of law and very few breaches between the formal legislation and practice. For example, one of the few instances Sweden has received criticism in this area, is by Amnesty International which accused Sweden of using bureaucratic hurdles to halt the family reunification application and to stop Syrians from bring their relative to Sweden in order to decrease the number of newly arrivals (Sveriges Radio, 2017 b). Syrians who have the right to be reunited with their family members, had only the option to apply for family reunification in the Swedish embassies in five countries where Syrians can hardly get a visa to reach those embassies. However, in January 2017 the Swedish embassy in Sudan opened its doors for Syrians to apply for family reunification where they do not need a visa to travel and reach the embassy (Sveriges Radio, 2017 b).

Another concern has been expressed in relation to three month period limit to apply for the family reunification in the temporary limitation law (2016:752) (Sveriges Radio, 2015 b). The commissioner in the above-mentioned report (2018) indicates other practical impediments to family reunification, beside the legal obstacles, such as the strict ID/passport as an identity proof and long processing times with 21-month waiting period on average.

When it comes to the age assessment in the case of asylum seeker children, there is considerable legal uncertainty in the current regulation concerning age revisions as the Swedish Barnombudsman for Children described it in its annual report (2017a p24). In addition it is added in this report that this view is shared by the Swedish Bar Association and the Swedish Migration agency in an internal report on age assessments. According to the UNHCR observations on the draft law proposal "Age Assessment Earlier in the Asylum Procedure" in Sweden UNHCR states that it prefers a holistic assessment of capacity, vulnerability and needs that reflects the actual situation of a young person to estimate the chronological age and it does not use the medical age assessments in its operations due to the uncertainty factor within it. However UNHCR in the same observations expresses its appreciations for the measures taken by the Swedish government which has ensured the reliability and safety, and ethical application to the medical age assessment method (UNHCR, 2017 a).

Another problem facing the Swedish migration system is the unaccompanied minors disappearing from Sweden. The Swedish government has assigned the task for the governmental agency for child care Barnombudsman¹⁷ to investigate the reasons behind this phenomenon. There have been about 1736 unaccompanied minors who had disappeared

¹⁷ According the Ombudsman's homepage the ombudsman for Children in Sweden is a government agency tasked with representing children regarding their rights and interests on the basis of the UN Convention on the Rights of the Child (CRC). For more information see <https://www.barnombudsmannen.se/om-webbplatsen/english/>

between January 2014 and October 2017. The Barnombudsman has conducted several interviews with several unaccompanied minors and they explained different reasons for the disappearing phenomenon. For example the trauma from the wars in their home country, the fear of the migration agency's negative decision when they turn 18 year old and the possibility to live nearby those who means a lot for the unaccompanied minors were some explanations and answers by them (Ombudsmannen, 2017 a).

When it comes to Sweden's commitments in relation with the European Convention on Human Rights and with the 1951 Geneva Convention and international community outside Sweden, UNHCR has stated in 2016 that Sweden has a long tradition of providing sanctuary to persons in need of international protection, and is a strong supporter of the international protection regime and the work of UNHCR (2016 para 5-7). The Commissioner after his visit in October 2017 to Sweden has welcomed Sweden's commitment to increase resettlement up to 5,000 in 2018 more than doubling its programme in two years. In addition he also acknowledges that Sweden was UNHCR's third largest contributor per capita with a total contribution of SEK 1.2 billion (Commissioner for Human rights, 2018).

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ANNEX I: Overview of the Main Legal Framework on Migration, Asylum and Reception Conditions

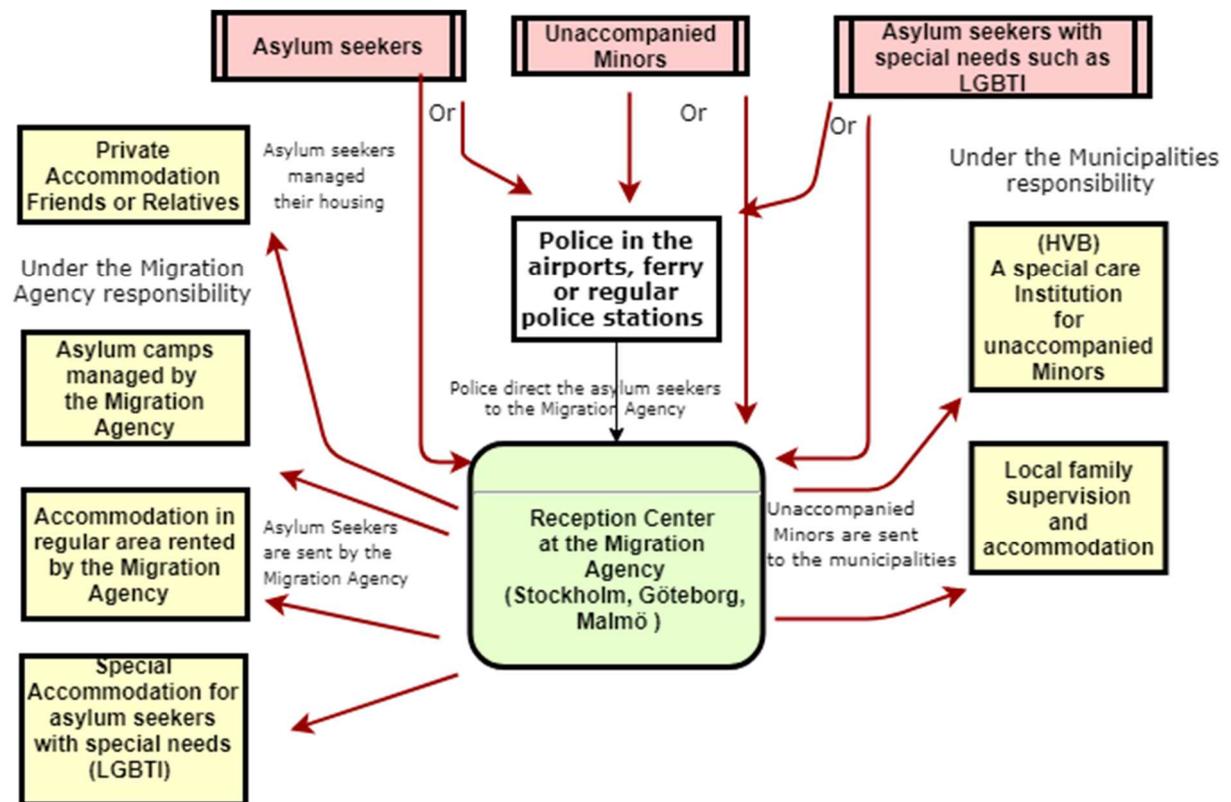
Legislation title and number	Date	number	Link/PDF
Aliens Act (Utlänningslagen)	2005	716	https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/utlanningslag-2005716_sfs-2005-716
Aliens Act Ordinance (Utlänningsförordningen)	2006	97	https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/utlanningsforordning-200697_sfs-2006-97
Law on Temporary Limitations to The Possibility of Being Granted a Residence Permit (Lag om tillfälliga begränsningar av möjligheten att få uppehållstillstånd)	2016	752	https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/lag-2016752-om-tillfalliga-begransningar-av_sfs-2016-752
Act on Reception of Asylum Seekers and Others (LMA) (Lag om mottagande av asylsökande)	1994	137	https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/lag-1994137-om-mottagande-av-asylsokande-mfl_sfs-1994-137
Ordinance on the Act on Reception of Asylum Seekers (Förordning om lagen om mottagande av asylsökande)	1994	361	http://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/forordning-1994361-om-mottagande-av_sfs-1994-361
Act on the guardianship (Godman) for the unaccompanied children (Lag om god man för ensamkommande barn)	2005	429	http://www.riksdagen.se/sv/Dokument-Lagar/Lagar/Svenskforfattningssamling/Lag-2005429-om-god-man-for-_sfs-2005-429/?bet=2005:429
Law on health care for asylum seekers (Lag om hälso- och sjukvård åt asylsökande)	2008	344	http://www.riksdagen.se/sv/Dokument-Lagar/Lagar/Svenskforfattningssamling/Lag-2008344-om-halso--och-s_sfs-2008-344/?bet=2008:344
Ordinance about the state compensation for asylum seekers, etc. (Förordning om statlig ersättning för asylsökande m.fl)	2017	193	http://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/forordning-2017193-om-stallig-ersattning-for_sfs-2017-193
Act on the reception and housing for the certain newly arrival migrants (Lag om mottagande av visa nyanlända invandrare för bosättning)	2016	38	http://www.riksdagen.se/sv/Dokument-Lagar/Lagar/Svenskforfattningssamling/Lag-201638-om-mottagande-av_sfs-2016-38/?bet=2016:38
Act on the introduction actions for certain newly arrival migrants (Lag om etableringsinsatser för visa nyanlända invandrare)	2010	197	http://www.riksdagen.se/sv/Dokument-Lagar/Lagar/Svenskforfattningssamling/Lag-2010197-om-etableringsi_sfs-2010-197/?bet=2010:197

ANNEX II: List of Authorities Involved in the Migration Governance

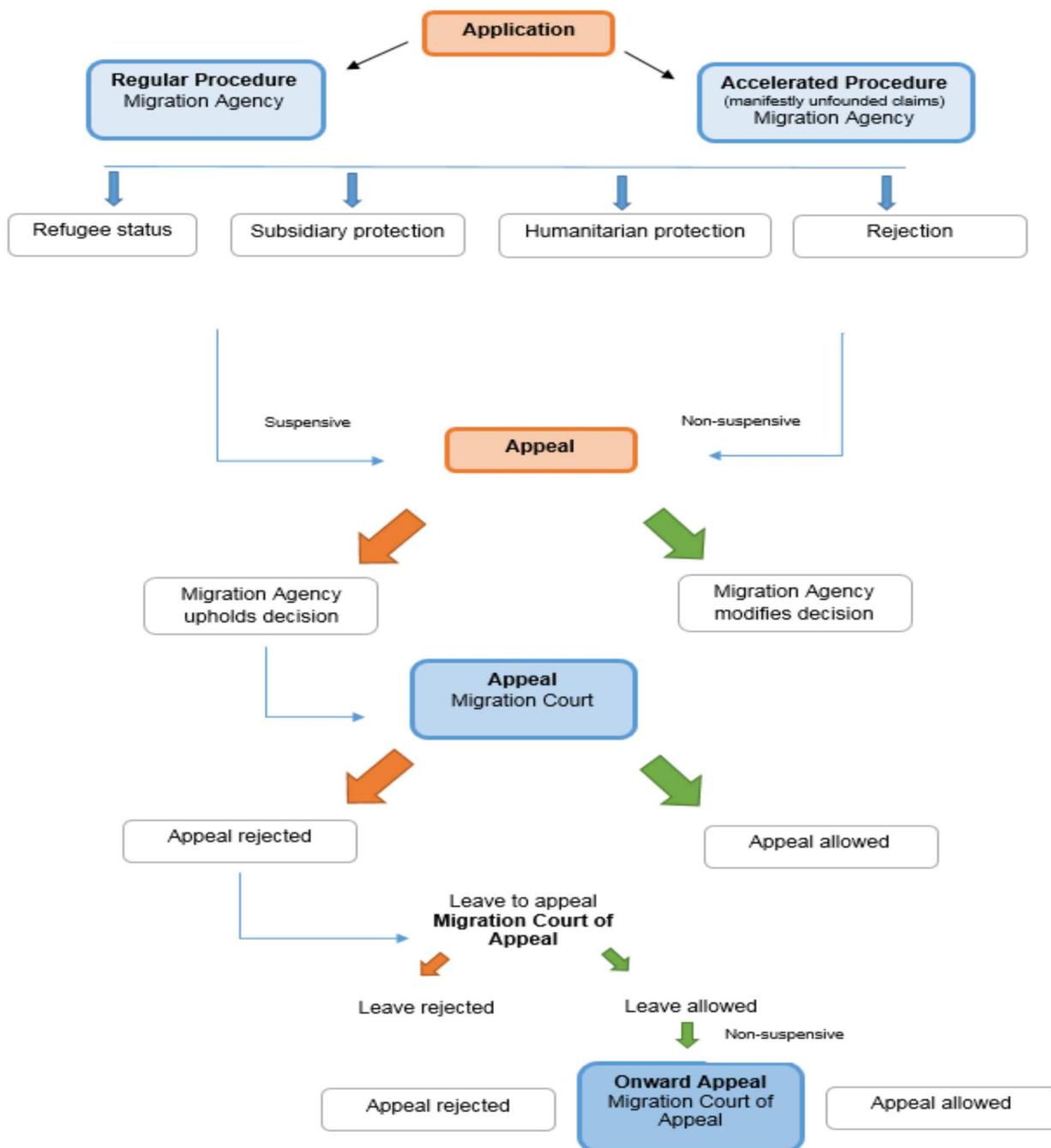
Authority (English and original name)	Tier of government (national, regional, local)	Area of competence in the fields of migration and asylum	Link
Ministry of Justice and Internal Affairs (Justitiedepartementet)	National Ministry	The different aspects of the migration and asylum process	https://www.regeringen.se/sveriges-regering/justitiedepartementet/
Division for Migration Law (L7) (Enheten för migrationsrätt)	National Agency	The legislative issues in relation to migration law, Swedish citizenship and certain border control matters	https://www.regeringen.se/sveriges-regering/justitiedepartementet/justitiedepartementets-organisation/
Division for Migration and Asylum Policy (EMA) (Enheten för migration och asylpolitik)	National Agency	The international cooperation in relation with the migration policy	https://www.regeringen.se/sveriges-regering/justitiedepartementet/justitiedepartementets-organisation/
Division for Management of Migration Affairs (SIM) Enheten för styrning inom migrationsområdet	National Agency	Economic governance and follow-up in the field of migration	https://www.regeringen.se/sveriges-regering/justitiedepartementet/justitiedepartementets-organisation/
Swedish Migration Agency (Migrationsverket)	National Agency	The administrative authority for all issues related to residence permits, work permits, visas, reception of asylum seekers, citizenship etc.	https://www.migrationsverket.se/English/Startpage.html
Swedish embassies and consulates	National Agency	receive applications for visas, residency permit and job permit	https://www.swedenabroad.se/en/
Migration Courts (Sveriges Domstolar)	National Agency	The Migration Agency's decisions can be appealed there.	http://www.domstol.se/
The county administrative boards (Länstyrelsen)	Regional Agency	the governmental administration in the county which will work towards achieving national goals in the county and promote the development of the county including the newly arrival reception	https://www.lansstyrelsen.se/stockholm/om-lansstyrelsen-stockholm/om-oss.html
The county council (Landstinget)	Regional Agency	The asylum seekers' health	https://www.landstingsarkivet.sll.se/kontakta-oss/om-oss.html

		care, NGOs and aid agencies, which can support asylum seekers	
Municipalities (Kommunerna)	Local Agency	Reception of asylum seekers who have been granted residence permits	https://skl.se/tjanster/kommunerlandsting/faktakommunerochlandsting.432.html
The Swedish National Insurance Agency (Försäkringskassan)	National Agency	handling the integration contributions or introduction program allowances	https://www.forsakringskassan.se/
The Swedish Public Employment Services (Arbetsförmedlingen)	National Agency	The necessary support and actions and promote a quick and effective integrating possibilities for the newly arrivals in the job market	https://www.arbetsformedlingen.se/
The Swedish Board of Student Finance (CSN)	National Agency	Study loan and allowance for newly arrivals	https://www.csn.se/languages.html#h-WelcometoCSN
The Children's Ombudsman	National Agency	Unaccompanied Minors care and reception	https://www.barnombudsmannen.se/om-webbplatsen/english/

ANNEX III: Flow Chart of the National Reception for asylum seekers



ANNEX IV: Flow Chart of the International Protection Procedure



Source: AIDA, Asylum Information Database, Country Report Swede 2015 (update 2015), p. 10, <http://www.asylumineurope.org/reports/country/sweden>

Glossary and List of Abbreviations

UNHCR	United Nations High Commissioner for Refugee
ECHR	European Convention on Human Rights
CSN	Centrala Studiestödsnämnden
LMA	Law on the Reception of Asylum Seekers
LGBTI	Lesbian, gay, bisexual, transsexual and intersex
SIDA	Swedish International Development Cooperation Agency
UNDP	United Nations Development Program

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