

## Country factsheet Sweden

Based on its 2010 Work Programme, the European Union Agency for Fundamental Rights (FRA) carried out a study on access to justice for asylum seekers. This study illustrates the perspective of asylum seekers on two specific issues relating to the asylum procedure, namely information on the procedure itself and access to remedies against a negative decision.

The FRA interviewed almost 900 asylum seekers throughout the European Union. The information received has been analysed taking into account the relevant national legal provisions and the responses to a questionnaire on information received from national asylum authorities. The research has resulted in two comparative reports, the first on the duty to inform and the second on access to effective remedies.

This factsheet complements these two comparative studies by providing some basic background information, including statistics and relevant domestic legal provisions relating to the issues covered in the two reports.

## 1. Statistics

Statistics on asylum applications (Total and top 10 nationalities)

2009 Top 10 Nationalities		2008 Top 10 Nationalities	
Total	24,240	Total	24,875
Somalia	5,915	Iraq	6,325
Iraq	2,310	Somalia	3,410
Afghanistan	1,695	Serbia	2,035
Kosovo	1,235	Stateless	1,080
Iran (Islamic Republic of)	1,140	Russian Federation	920
Russian Federation	1,065	Eritrea	885
Eritrea	1,035	Afghanistan	810
Stateless	910	Iran (Islamic Republic of)	810
Mongolia	760	Mongolia	795
Syrian Arab Republic	590	Uzbekistan	770

Statistics on first instance asylum decisions (Total positive decisions - top five nationalities)

2009							
	Geneva Convention Status	Subsidiary protection status	Humanitarian <sup>1</sup>	Rejected	Total number of decisions	Total positive decisions	Recognition rate <sup>2</sup> %
Total	1,480	4,970	640	16,890	23,985	7,095	29.6
Somalia	460	2,970	100	1,675	5,205	3,530	67.8
Iraq	290	590	120	3,230	4,230	1,000	23.6
Eritrea	145	545	15	230	935	705	75.4
Afghanistan	100	430	100	490	1,120	635	56.7
Stateless	85	190	35	640	950	310	32.6

Statistics on final decisions (Total positive decisions - top five nationalities)

2009							
	Geneva Convention Status	Subsidiary protection status	Humanitarian <sup>1</sup>	Rejected	Total number of decisions	Total positive decisions	Recognition rate <sup>2</sup> %
Total	310	1,155	535	13,440	15,435	1,995	12.9
Iraq	90	330	100	5,125	5,645	520	9.2
Somalia	15	450	15	585	1,060	475	44.8
Eritrea	15	120	10	135	285	150	52.6
Afghanistan	30	55	30	335	445	115	25.8
Iran (Islamic Republic of)	45	30	15	370	460	90	19.6

Notes: These tables are based on categories used by Eurostat. The way Eurostat presents its data may not necessarily correspond to categories used at national level. This can particularly be the case with statistics provided under 'humanitarian status'. For a more detailed understanding of the data, the reader is invited to consult national statistics at: <http://www.migrationsverket.se/info/790.html>.

Data has been rounded to the nearest 5. Due to the rounding, the sum of individuals may not necessarily match the given total. 0 means less than 3; n.a. = not available. Kosovo (under United Nations Security Council Regulation 1244).

<sup>1</sup> Covering persons granted authorisation to stay for **humanitarian reasons** under national law by administrative or judicial bodies. It includes persons who are not eligible for international protection as currently defined in the first stage legal instruments but are nonetheless protected against removal under the obligations that are imposed on all Member States by international refugee or human rights instruments or on the basis of principles flowing from such instruments.

<sup>2</sup> The **recognition rate** corresponds to the proportion of positive first instance or final on appeal decisions out of the total number of decisions in 2009. Positive decisions include the provision of refugee status, subsidiary protection and humanitarian protection (where data is available).

Source: [Eurostat](#), Data extracted on 07 September 2010.

## 2. Background Information

### Asylum legislation<sup>1</sup>

[Aliens Act \(2005:716\)](#)<sup>2</sup>

[Aliens Ordinance \(2006:97\)](#)

### Asylum authorities

#### First instance authority

[The Migration Board](#)

#### Second instance authority

[The Migrations Courts](#) (which are part of the Administrative Courts) in Stockholm, Gothenburg and Malmö

## 3. Duty to inform asylum seekers

[The Administrative Procedure Law \(1984:223\)](#) contains general provisions regarding the handling of matters by the administrative authorities. Sections 4-5 of the law are exclusively dedicated to the service-duties of the authorities. These obligations include the duty to provide information, guidance, advice and similar assistance to all persons concerning matters falling within the scope of its functions. The assistance shall be given to the extent that is deemed appropriate with regard to the nature of the matter, the person's need of assistance and the activity of the authority. Section 7 states moreover that the authority shall express itself in an easily understandable way and also by other means make matters easy for the people with whom it deals. These provisions are applicable for the Migration Board as well as the Migration Courts.

The Aliens Ordinance (2006:97) includes, further, specific provisions regarding the right of aliens to information. According to Chapter 8, Section 10(d), the Swedish Migration Board shall, in connection with an alien seeking asylum or other such forms of protection, provide the alien with information about the procedure; the alien's rights and duties, as well as possible consequences if the alien does not comply with her/his obligations or otherwise does not cooperate with the authorities. The information shall be provided in a language the alien can understand.

In August 2010, the Swedish Migration Board provided the following information to the FRA as regards written information materials.

<b>Written information materials</b>	Information leaflet translated into 14 languages.
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<sup>1</sup> The legal information in this factsheets has been updated to reflect the situation on 1 September 2010.

<sup>2</sup> The version of the Aliens Act published at the website of the Government Offices of Sweden was consulted lastly on 29 March 2010. Although not the latest legislative version, the information contained in this factsheet reflects the most current amendments to the [Aliens Act](#).

<b>Provided when?</b>	At the registration of the application.
<b>Provided by whom?</b>	At the registration of the application – by the Application Unit. The asylum seekers receives also information at the first appointment with the Reception Unit, which takes place two days after the first instance interview.
<b>Has an evaluation of information tools been carried out?</b>	Not recently.

## 4. Effective Remedy

### Type of procedures

There are three types of procedures: (i) regular, (ii) accelerated and (iii) Dublin procedures.

A regular asylum procedure is initiated when the alien submits an application (Aliens Act (2005:716) Chapter 4, Section 3, 3a and Chapter 5, Section 18). The Swedish Migration Board is the authority empowered to take decisions in asylum cases (Chapter 4, Section 6). A decision should be made within three months from the application (Chapter 8, Section 5).

An accelerated procedure exists for manifestly unfounded applications, i.e. if it is obvious that there are no grounds for asylum and that a residence permit is not to be granted on any other grounds (Chapter 8, Section 6).

Before an asylum claim can be examined on its merits, the Migration Board must first determine whether Sweden is responsible for processing the claim under the Dublin II Regulation. If another state party to the Regulation is responsible for processing the application, the asylum application shall be dismissed (Chapter 5, Section 1(c)) and the Migration Board shall issue a decision for transferring the asylum seeker to the country responsible.

### Duty to state reasons for rejection and procedure to appeal

The general provisions under the Administrative Procedure Act (1984:223) and the [Administrative Court Procedure Act \(1971:291\)](#) are applicable to the Swedish Migration Board, the Migration Courts as well as the Migration Court of Appeal, and require thus the authorities to provide the asylum seeker with necessary information. Moreover, the Aliens Act (2005:716) requires explicitly that an asylum decision shall always contain the reasons on which the decision is based (Chapter 13, Section 10).

The decisions of the Swedish Migration Board may be appealed to a Migration Court in the cases specified under Chapter 14 of the Aliens Act (2005:716). This includes, *inter alia*, decisions on application for asylum processed in the regular, accelerated and the Dublin procedure (Chapter 14, section 3 and 6).

### Time limits for appeal

According to the general provisions of the Swedish Administrative Procedure Act (1984:223) and the Administrative Court Procedure Act (1971:291), the appeal must be submitted within

three weeks from the date on which the appellant received the decision (Section 23 and Section 6 respectively). Pursuant to Chapter 16, Section 10 of the Aliens Act an appeal against a decision of the Migration Court shall be lodged within three weeks from the day on which the decision was issued. If the decision was not issued at an oral hearing and no announcement has been made at such a hearing of when the decision will be issued, the appeal period for the alien shall be counted from the day on which he or she was informed of the decision.

Type of procedure	Time limits	Right to remain
Regular procedure	3 weeks	Automatic suspensive effect.
Accelerated procedure	3 weeks	No suspensive effect but the Swedish Migration Board or the Migration Courts may grant suspensive effect in the individual case.
Dublin	3 weeks	No suspensive effect but the Swedish Migration Board or the Migration Courts may grant suspensive effect in the individual case.

## Right to remain in the country during appeal

If an alien has applied for asylum, negative decisions taken in the regular procedure shall not be enforced until the application has been rejected through a decision that is final (Chapter 12, Section 8(a)).

Applications deemed inadmissible in the Dublin procedure or rejected as manifestly unfounded may be enforced even if they are not yet final and non-appealable (Chapter 8, Section 6). In these cases, an asylum seeker may however appeal the decision before one of the Migration Courts and either the Board itself or the Migration Courts shall then examine whether the order shall be suspended for the time necessary to re-examine the case (Chapter 12, Section 10, Chapter 14, Section 3 and Chapter 16, Section 9).

## Legal Aid

Pursuant to Chapter 18, in cases concerning appeals of the Migration Board's decision on whether to grant asylum, a public counsel shall be appointed at a request of the alien, if the alien is in Sweden and it is not evident that he/she will not be granted the claimed refugee status (Chapter 18, Section 1a).

## Language assistance

Besides the general provisions in the Administrative Procedure Act (1984:223) regulating authorities' service-duties, as well as the provisions in the Aliens Ordinance (2006:97) specifically addressing information to aliens by the Migration Board, there are other provisions regulating questions of language assistance.

Section 8 of the Administrative Procedure Act (1984:223) establishes that when an authority is dealing with someone who does not have a command of the Swedish language, the authority should use an interpreter when needed. Section 50 of the Administrative Court Procedure Act (1971:291) establishes also that if a party does not speak Swedish or if he/she has a serious hearing or speech impediment, the court shall, if necessary, engage an interpreter.

## Hearing

Pursuant to Chapter 16, Section 5 of the Aliens Act (2005:716) the general rule is that a written procedure is followed before the Migration Courts. However, an oral hearing shall be held by a Migration Court if an alien who is conducting an action so requests and the hearing is not unnecessary and there are further no special grounds for not holding it. The handling of a case may also otherwise include an oral hearing on a particular question, if it can be assumed to be advantageous for the investigation or to promote a rapid resolution of the court action. Aliens who are summoned to attend an oral hearing to be heard are further entitled to reasonable reimbursement from public funds for the costs of their attendance (Chapter 13, Section 5).