

# **European Migration Network**

## **The Practices in Sweden Concerning the Granting of Non-EU Harmonised Protection Statuses**

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## **Executive Summary**

A new Aliens Act was passed in Sweden in 2006,<sup>1</sup> which significantly changed the asylum process and set new focus on the assessment of protection issues. Consequently, this report dedicates considerable attention to the effects of this legal and procedural reform.

The Swedish Government's main objective with the new law was to make the process more uniform by transferring it to an independent court system (Migration Courts). Another expected outcome was to hasten the process in order to shorten the time applicants spent in the reception system. A recent government study<sup>2</sup> shows that the structural changes have made the asylum process more predictable, uniform and transparent, with clearer reasoning in both decisions and judgments. The judicial process, with two independent parties and an increased element of oral hearings, has compelled all parties to examine and re-examine their arguments. As a result, the process has not only become more transparent, but also more accessible to applicants.

Although there are some differences of opinion about how the law should be interpreted – primarily with regard to humanitarian protection – the general opinion seems to be that the main substantive principles of the Aliens Act are adequate. The statistics also show that the amendments to the Aliens Act have increased the number of aliens granted refugee status and subsidiary protection, and decreased the number of aliens granted humanitarian protection.

## **The Residence Permit Concept**

The Swedish Aliens Act is built on the concept of the residence permit, rather than the granting of status. The residence permit is the legal basis for inclusion in the population registry and the attendant access to social and economic benefits under Swedish law. For this reason, aliens in need of protection are normally granted permanent residence permits, thus giving them access to social and economic rights and benefits on the same terms as for Swedish citizens. All legal residents of Sweden enjoy freedom of movement and access to education, the labour market, and medical care on the same terms as for Swedish citizens.

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<sup>1</sup> Aliens Act (2005:716), which entered into force on 31 March 2006.

<sup>2</sup> Swedish Government Report SOU 2009:56

## **Statuses not Covered by Council Directives**

The Swedish Government recently analysed the national regulation – the Aliens Act (2005:716) – and found the definition of “refugee” contained therein and the regulations on refugee status in the Qualification Directive 2004/83/EC to be consistent with the Swedish regulation. The government’s analysis also concluded that the definition of an alien in need for subsidiary protection in the Qualification Directive 2004/83/EC is covered by the national regulation. However, it should be noted that the Swedish Government considers the Aliens Act somewhat more generous than the regulation for subsidiary protection in the Qualification Directive, since the Swedish regulation covers “other severe conflicts”.

There are four national statuses in the Swedish Aliens Act not covered by the Council Directives:

- subsidiary protection due to “other severe conflicts” (an expansion of “international or national armed conflict”) in the country of origin, if the individual has a well-founded fear of being subject to serious abuse;
- subsidiary protection to an alien who is unable to return to the country of origin due to an environmental disaster;
- humanitarian protection, and;
- protection of tribunal witnesses.

Of the above, the statuses of “subsidiary protection due to other severe conflicts in the country of origin” and “humanitarian protection” are granted more frequently, whereas protection has thus far been only rarely granted to tribunal witnesses. It should also be noted that subsidiary protection due to environmental disasters has thus far not been applied in Sweden.

# 1. Introduction: Purpose and Methodology

This study on Non-EU Harmonised Protection Statuses is part of the European Migration Network's (EMN's) Work Programme for 2009. The aim of the study is to analyse the different national practices concerning the granting of non-EU harmonised protection statuses, that is, all statuses other than "Refugee" and "Subsidiary Protection", as defined in the Qualification Directive 2004/83/EC. Accordingly, this National Report analyses Swedish practices for granting non-EU harmonised protection statuses. The report may be useful to national and EU officials as well as non-governmental organisations and other stakeholders/individuals in EU Member States.

## 1.1. Methodology

The Swedish National Report is primarily based on information from government reports<sup>3</sup> and statistics compiled by the Swedish Migration Board (hereafter the Migration Board). To ensure the relevance and objectivity of the presented material, opinions on the legal framework and the granting of protection in Sweden have been obtained via interviews with individuals well acquainted with the legislation and case law.

### 1.1.1. Statistics

The Migration Board collects information on aliens/foreigners who apply for various kinds of residence permits, are granted permits, or are denied residence or work permits. This information is compiled in a central database, which constitutes the main source of information for the data presented in this National Report. Some of the data are available on the Migration Board's website.<sup>4</sup>

A few challenges encountered in relation to the statistical requirements stated in the study specifications are worthy of mention. For instance, the specifications state that individuals granted protection under the Qualification Directive<sup>5</sup> must be separated from individuals granted protection under national law. However, Swedish data on quota refugees cover both groups. To illustrate: Sweden has an agreement with UNHCR to annually receive a certain quota of refugees who are in particularly vulnerable situations. But the Swedish Aliens Act (the relevant national law) contains no special protection clauses applicable to quota refugees and the data collected in the abovementioned database thus do not (currently) show whether or not a quota refugee has been found to have refugee status. It is

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<sup>3</sup> Swedish Government Bill 2004/05:170, Government Bill 2004/05:172, *Den nya migrationsprocessen* SOU 2009:56, and referral to the Legislative Council, "*Genomförande av skyddsgrundsdirektivet och asylprocedurdirektivet*"

<sup>4</sup> [www.migrationsverket.se](http://www.migrationsverket.se)

<sup>5</sup> Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted – Article 2 (c) and (e).

therefore difficult to link available data pertaining to this group with any specific protection clause. For this reason, quota refugees are presented separately from other groups in the statistics presented in this report.

Another matter which should be emphasised in this context is that available Swedish statistics do not split subsidiary protection into two categories relevant to this report: subsidiary protection granted in accordance with the Qualification Directive,<sup>6</sup> and subsidiary protection granted according to national law. The statistics only separate protection granted to individuals who feel “well-founded fear of suffering the death penalty or being subjected to corporal punishment, torture or other inhuman or degrading treatment or punishment” from those who need protection due to an external or internal armed conflict or other severe conflicts in the country of origin and who feel a well-founded fear of being subjected to serious abuse. The first category is not difficult to compare with subsidiary protection granted in accordance with the Council Directives. The second category is more difficult since, as indicated above, the Swedish database uses the same code for protection granted due to an external or internal armed conflict as for protection granted due to other severe conflicts. Protection due to external or internal armed conflict is granted within the Council Directives, but protection due to other severe conflicts is a national protection clause that is not covered by the Council Directives.

Another matter that affects the data presented in this National Report is the consequences of varied assessments of what constitutes “armed conflict” and what constitutes “internal or external conflict”. For instance, in line with a Government decision dated 19 February 2004, the Migration Board classified the situation in Chechnya as an armed conflict.<sup>7</sup> However on 19 March 2008, the Migration Board’s Director for Legal Affairs assessed the security situation in Chechnya as improved, and the situation in the region was subsequently no longer regarded as an “armed conflict”.<sup>8</sup> Moreover, in late 2007 the Migration Board’s Director-General and Director for Legal Affairs concluded that the security situation in parts of Afghanistan (the Kandahar, Helmand, Ghazni, Uruzgan, Paktika and Kabul regions) should be regarded as an “armed conflict”.<sup>9</sup> In a ruling issued in February 2007, the Migration Board of Appeal further reasoned that the conflict in Iraq did not constitute “an internal armed conflict” but should be considered an “other severe conflict” and examined according to national statutes.<sup>10</sup> As a result of these assessments and decisions during the timeframe in focus for this report, all decisions granting subsidiary protection due to the security situation in Russia and Afghanistan are considered covered by the Council Directives for the purposes of this study. Other decisions granting subsidiary protection due to the security situation in other countries are

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<sup>6</sup> Council Directive 2004/83/EC; Article 15.

<sup>7</sup> Lifos No. 10784, 10785, 10786, 10789.

<sup>8</sup> Lifos No. 18223 - <http://www.migrationsverket.se/include/lifos/dokument/www/08041980.pdf>

<sup>9</sup> Lifos no 17728 -

<http://www.migrationsverket.se/lifos/dok.do?dtyp=&fritext=17728&fritext=@DOCN&sidStorlek=10&sorteringsOrdning=-UDAT,-DOKN&mode=&currDokument=1>

<sup>10</sup> Migration Board of Appeal, MIG 2007:9, decision of 26 February 2007

regarded as consistent with the national protection clause. This generalisation may result in minor errors in the statistics of this report.

It should also be noted that all residence permits shown in the statistics of this report are permanent. Very few temporary permits are issued and thus have limited impact on the statistics.

### **1.1.2. The Legal Framework**

The central concept in the Council Directives is the *status* the alien is granted, but the Swedish regulation on protection is built on *the residence permit concept*. This difference could have some effect on the results of this study since “status” cannot be granted to an alien who does not meet the criteria as a “refugee”, but aliens in need of subsidiary protection or humanitarian protection are granted a residence permit according to the Swedish regulation, and not a “status”.

The legal framework for protection in Sweden was amended through the Aliens Act (2005:716) that took effect in March 2006 (see also section 2). These amendments have affected both practices and statistics. The effects are discussed under each section below. It should be noted that the Aliens Act (2005:716) was in the process of evaluation and revision as this report was being written, but the outcome and impacts of the evaluation fall outside the framework and scope of this study, since any legal amendments will be not be decided or take effect until early 2010 at the soonest.

## 2. Protection Statuses Granted in Sweden

### 2.1. The Swedish Regulation on Protection

The former Aliens Act (1989:529) entered into force on 1 July 1989 and was amended for the period of 15 November 2005 to 31 March 2006 via the so called “temporary law”.<sup>11</sup> The “temporary law” expanded opportunities to grant residence permits to aliens who had been in Sweden for a long time and could not be returned. Special consideration was given to children and families.

The current Aliens Act (2005:716) entered into force on 31 March 2006. It transformed several aspects of the asylum process and set a different focus on assessment of protection issues. The main differences between the former Aliens Act and the current Aliens Act are:<sup>12</sup>

- ***Migration Courts established.*** In accordance with the *former* Aliens Act, a negative decision by the Migration Board could be appealed to the “Aliens Appeal Board” (a government authority for appeal, but not a court). The Aliens Appeal Board was the instance of last resort for most appeals, although the Government could examine certain cases under special circumstances. In accordance with the *current* Aliens Act, a negative decision from the Migration Board may be appealed to one of three Migration Courts.<sup>13</sup> Rulings handed down by these Migration Courts may in turn be appealed to the Migration Court of Appeal,<sup>14</sup> which is the court of last resort. However, the Migration Court of Appeal requires leave to appeal (see 2.3.3), which limits the number of cases heard by the court. Moreover, the Government now only handles cases tried under the Act (1991:572) on Special Control over Aliens, certain national security cases, and petitions for clemency when a criminal court has issued a removal order.
- For several years Sweden granted residence permits to certain categories such as draft resisters, homosexuals, bisexuals and transgender individuals, victims of human trafficking and women at risk of female genital mutilation. Until the current Aliens Act went into effect, these groups were granted subsidiary protection under the Council Directives. ***The current Aliens Act***

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<sup>11</sup> Act (2005:762) Amending the Aliens Act (1989:529).

<sup>12</sup> Swedish Government Bill 2004/05:170 “*Ny instans- och processordning i utlännings- och medborgarskapsärenden*”.

<sup>13</sup> The Migration Courts are located at three of Sweden’s Administrative Courts: the County Administrative Courts in Stockholm, Skåne and Gothenburg. The Administrative Courts are general Administrative Courts. See also [http://www.domstol.se/templates/DV\\_InfoPage\\_2321.aspx](http://www.domstol.se/templates/DV_InfoPage_2321.aspx)

<sup>14</sup> The Migration Court of Appeal is located at the Administrative Court of Appeal in Stockholm. It is the court of last resort and its rulings provide guidance for decisions by the Swedish Migration Board and Migration Courts in similar matters. The Administrative Court of Appeal is a general administrative court.

*includes persecution on the grounds of gender and sex in the refugee clause.*

- The clause on *humanitarian protection has been amended*. The amendment precluded the consideration of “political humanitarian arguments” under this clause. Accordingly, all “political” arguments should be addressed under the refugee or subsidiary protection clauses.
- The former Aliens Act provided unlimited opportunity to submit new applications for a residence permit after a removal order had gained legal force. Such applications were examined by the Aliens Appeal Board. The current Aliens Act limits this avenue and the Migration Board can only examine applications that specify impediments to enforcing the removal order.
- Under to the former Aliens Act, the validity of a removal order expired when the alien left Sweden. The current Aliens Act maintains the validity of removal orders for four years and the order may be enforced more than once during the four-year period.

It should be noted that the current Aliens Act contains somewhat vague clauses which require tools for interpretation. The *main international tools for interpretation of the protection clauses* are the Geneva Convention, EC Directives, the UNHCR Handbook for Determining Refugee Status, and rulings in the European Court of Justice, the European Court of Human Rights and the Committee Against Torture. The *main national tools for interpretation of the Aliens Act* are the preparatory reports produced by the ministry prior to each legal amendment. These reports often exemplify and provide detailed information on how a specific clause should be interpreted. Decisions from the Aliens Appeal Board and the Migration Court of Appeal are additional tools for interpretation.<sup>15</sup>

It should also be noted that the current Aliens Act (2005:716) was under evaluation and revision as this report was being written (see also 1.1.2). The first *expected* amendment<sup>16</sup> as a result of this evaluation and revision derives from changes needed in correlation with implementation of the Qualification Directive 2004/83/EC. The second *expected* amendment<sup>17</sup> derives from changes needed due to problems encountered in the practical application of the law, for instance in relation to clauses granting re-examination of impediments to removal. The Aliens Act will also be amended in correlation to the Asylum Procedure Directive 2005/85/EC, yet as mentioned (1.1.2) no decisions on

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<sup>15</sup> Most of these decisions and rulings, as well as reports on the political and security situation in different countries, are collected in a database kept by the Migration Board (called “LIFOS”). The database can be accessed via the website ([www.migrationsverket.se](http://www.migrationsverket.se)). Only a few reports in this database are classified and thus not available to the general public.

<sup>16</sup> Referral to the Legislative Council “*Genomförande av skyddsgrundsdirektivet och asylprocedurdirektivet*”.

<sup>17</sup> Swedish Government Report SOU 2009:56 “*Den nya migrationsprocessen*”.

neither of these matters were taken within the framework of this report and the expected amendments are thus not further addressed.<sup>18</sup>

## **2.2. EU Statuses Covered by Council Directives 2001/55/EC and 2004/83/EC**

The Swedish Government recently analysed the Swedish Aliens Act (hereafter the Aliens Act) and found the definition of “refugee” and the regulations on refugee status in the Qualification Directive 2004/83/EC to be consistent with the Aliens Act, Chapter 4, Section 1 and 3 (the Swedish regulation on the definition of a refugee and the possibility of granting refugee status).<sup>19</sup> These provisions in the Aliens Act are based on the Geneva Convention and the Qualification Directive. The Aliens Act Chapter 12, Section 2 concerning impediments to enforcement supplements the regulation in Chapter 4, Section 1, since it covers new circumstances that arise after a removal order has gained legal force.

The Swedish Government’s analysis of the Aliens Act furthermore concluded that the definition of an alien in need for subsidiary protection in the Qualification Directive 2004/83/EC is covered by the Aliens Act in Chapter 4, Section 2, subclause 1, and the first part of subclause 2 (“...needs protection because of external or internal armed conflict...”). However, the Aliens Act in its present form does not grant an alien in need for subsidiary protection a status – only a residence permit. As mentioned, this matter is currently under revision (see 2.1).

The Aliens Act Chapter 12, Section 1 and 3 supplements the regulation in Chapter 4, Section 2, subclause 1 and part of subclause 2 by covering new circumstances that will result in impediments to removal after a removal order has gained legal force.

Council Directive 2001/55/EC is implemented in Chapter 21 of the Aliens Act.

## **2.3. National Statuses *not* Covered by Council Directives**

### **2.3.1. Subsidiary Protection**

When it comes to subsidiary protection, the Aliens Act has not been amended since 1996. The Swedish Government considers the Aliens Act somewhat more generous than the regulation for subsidiary protection in the Qualification Directive, since the Swedish regulation covers “other severe conflicts”.

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<sup>18</sup> See further Swedish Government Bill 2009/10:31.

<sup>19</sup> Referral to the Legislative Council “*Genomförande av skyddsgrundsdirektivet och asylprocedurdirektivet*”.

Chapter 4, Section 2, subclause 2 of the Aliens Act allows subsidiary protection to be granted to an alien who, due to other severe conflicts in the country of origin, feels well-founded fear of being subjected to serious abuse. This status is an expansion of the Qualification Directive's regulation in Article 15 C "serious and individual threat to a civilian's life or person by reason of indiscriminate violence in situations of international or internal armed conflict", which is not covered by the Council Directives. The Swedish regulation also permits protection to be granted even if the conflict does not meet international standards for an international or national armed conflict. However, the regulation does require individual assessment of the risk of being subjected to abuse as a consequence of the conflict.<sup>20</sup> If the asylum applicant invokes the security situation in the country of origin, the application will be considered according to this provision.

Chapter 4, Section 2, subclause 3 of the Aliens Act also permits subsidiary protection to be granted to an alien who cannot return to the country of origin due to an environmental disaster. Environmental migrants are not covered by any Council Directives. If the asylum applicant invokes the environmental situation in the country of origin, the application will be considered according to this provision.

### **2.3.2. Humanitarian Protection**

The clause concerning humanitarian protection has been amended several times in recent years. Since the current Aliens Act includes the word "exceptional", and the Preparatory Report provides detailed interpretation tools, it may be argued that the prerequisite in this clause is somewhat stricter than before. However, it should be noted that the Government argued in its Preparatory Report that the amendment merely is a legalisation of practice.

Chapter 5, Section 6 of the Aliens Act allows humanitarian protection to be granted if it is found upon overall assessment of the alien's situation that the circumstances are so exceptionally distressing that the person should be allowed to stay in Sweden. In this assessment, particular attention must be paid to the alien's adjustment to Sweden and the situation in the country of origin. Children may be granted residence permits under this section even under circumstances of lesser seriousness and weight than required for a permit to be granted to adults.

The Preparatory Report initiating this protection clause specifies that the clause can be used to protect, for example; aliens with fatal illnesses or severe disabilities whose condition may be improved in Sweden if adequate care is unobtainable in the country of origin; aliens who risk social exclusion or traumatisation if forced to return to their country of origin (victims of torture, victims of trafficking, etc., no longer at risk of persecution or abuse in the country of origin etc.); and children whose development will be gravely endangered after a removal order.<sup>21</sup>

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<sup>20</sup> See ruling of the Swedish Migration Court of Appeal, Ref. No. MIG 2007:9.

<sup>21</sup> See preparatory report 2004/05:170, pages 189-195.

Considerations under this clause must be separated from other protection issues, which are examined under the clauses defining refugees and people in need for subsidiary protection.<sup>22</sup> If the asylum applicant invokes humanitarian grounds, the application will be considered according to this regulation.

### **2.3.3. The Asylum Procedure**

All asylum cases are examined on their individual merits. Protection statuses are assessed on discretionary grounds with regard to the European Convention on Human Rights, which has been accorded the status of Swedish law. When establishing the facts in the asylum procedure, the Council Directives and the UNHCR Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees are regarded as tools for interpretation.<sup>23</sup>

All asylum applicants who risk refusal of entry or removal are entitled to public counsel, unless it can be presumed there is no need for counsel, that is, when it is likely a residence permit will be granted or obvious that it will be denied. Public counsel is also appointed in cases concerning impediments to enforcing a refusal-of-entry or removal order if a “stay of enforcement order” has been issued. Aliens detained for more than three days are also entitled to public counsel.

An oral hearing must be included in the proceedings. During all oral hearings at the Migration Board and in the Migration Courts, an interpreter (paid for by the state) is present if the alien does not speak and understand Swedish.

Admissibility of evidence is a tenet of Swedish law, meaning there are almost no legal grounds for limiting the use of evidence. The burden of proof is on the applicant to prove his or her identity and the grounds for the application. Thus, the applicant must make his or her identity and need for protection probable.<sup>24</sup> If there is no reason to doubt testimony or evidence given, the applicant will be given the benefit of the doubt with respect to facts he or she is unable to prove. If there is reason to doubt the applicant’s identity and the applicant’s testimony is vague or contradictory, the applicant cannot be given the benefit of the doubt.<sup>25</sup>

If individual protection status is not granted during the asylum procedure at the Migration Board, the Board will reject the application in a decision, which is normally attached to a removal order. This decision may be appealed to a Migration Court within three weeks of the day the applicant is served with the decision. A decision by a Migration Court can be appealed to the Migration Court of Appeal within three weeks of the day the decision was issued or three weeks of the day the complainant was served with the decision. The Migration

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<sup>22</sup> Ruling of the Migration Court of Appeal, MIG 2007:33.

<sup>23</sup> See ruling of the Swedish Migration Court of Appeal, Ref. No. MIG 2007:12.

<sup>24</sup> See ruling of the Swedish Migration Court of Appeal, Ref. No. MIG 2007:9.

<sup>25</sup> See ruling of the Swedish Migration Court of Appeal, Ref. No. MIG 2007:12.

Court of Appeal requires leave to appeal to hear the case. Leave to appeal is granted only if the case is significant to guiding application of the law, the Migration Court of Appeal hears the appeal, or there are other exceptional grounds for hearing the appeal. The Migration Courts and the Migration Court of Appeal are independent courts.

#### **2.3.4. Refusal to Grant Residence Permit**

Chapter 5, Section 1 of the Aliens Act regulates refusal to grant residence permits. A refugee may be refused a residence permit if there are exceptional grounds for not granting a residence permit based on known facts about the alien's previous activities or for reasons of national security. A person otherwise in need of protection under Chapter 4, Section 2, first paragraph, subclauses 2 and 3 of the Aliens Act may also be refused a residence permit based on his or her criminal activities, if there are special grounds for refusing the alien a residence permit, or if there are exceptional grounds for refusing such a permit based on known facts about the alien's previous activities or for reasons of national security.

#### **2.3.5. Impediment to Enforcement**

When a removal order has become final and non-appealable it remains valid for four years. During this period, protection can only be granted according to Chapter 12 of the Aliens Act.<sup>26</sup> The protection provisions in this chapter of the law are based on the principle of *non-refoulement* and should be considered both within and outside the asylum procedure.

Chapter 12, Section 1 of the Aliens Act is absolute. There are no exceptions allowing a removal to proceed if the alien would be at risk of suffering the death penalty; subjected to corporal punishment, torture or other inhuman or degrading treatment or punishment in the country to which he or she is sent; or if the alien is not protected in this country from being sent on to a country in which the alien would be at such risk.

Chapter 12, Section 2 of the Aliens Act stipulates that if the alien is at risk of persecution in the country to which he or she will be sent, or if the alien is not protected in this country from being sent on to a country in which the alien would be at such risk, the removal order can only be enforced if the alien has committed an exceptionally gross offence that would endanger public order and security if he or she were allowed to remain in Sweden. This provision does not apply if the persecution to which the alien is at risk in the other country entails danger to his or her life or is otherwise of a particularly severe nature. However, an alien may be sent to such a country if the alien has engaged in activities that endangered national security and there is reason to believe the alien would continue to engage in such activities, and it is not possible to send the alien to any other country.

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<sup>26</sup> See ruling of the Swedish Migration Court of Appeal, Ref. No. MIG 2008:36.

Chapter 12, Section 3 of the Aliens Act stipulates with respect to an alien who is not a refugee but is in need for subsidiary protection (at risk of being subjected to international or national armed conflict, or other severe conflict, or environmental disaster), that removal orders may be enforced to the alien's country of origin or to a country where he or she risks being sent on to the country of origin only upon exceptional grounds.

Chapter 12, Section 18, subclause 3 of the Aliens Act permits a "stay of enforcement" or for a residence permit to be granted to an alien when new circumstances – such as medical or other special grounds – come to light that justify non-enforcement. This provision is applicable only outside of the asylum procedure. To provide some guidance, the provision has been applied in cases in which:<sup>27</sup>

- the alien suffered from such severe medical problems that transport/travel could be life-threatening, or;
- enforcement of the removal order would separate family members for an unreasonably long time.

Chapter 12, Section 19 of the Aliens Act stipulates that the alien may request the Migration Board to re-examine the matter and issue a stay of enforcement on the grounds of new circumstances. In these cases, the new circumstances must be presumed to constitute a permanent impediment to enforcement as referred to in Section 1, 2 or 3 (presented above), as long as these circumstances were not previously invoked by the alien. If the stipulated conditions have not been met, the Migration Board must deny the request for re-examination. Decisions by the Migration Board to decline to re-examine an application for a residence permit and issue a stay of enforcement may be appealed according to the same procedures as for the normal asylum procedure.

### **2.3.6. Tribunal Witnesses**

The Migration Board may grant protection to witnesses before an international court or tribunal, and to their families, according to the provisions of Chapter 22 of the Aliens Act. Sweden has entered into bilateral agreements with a few international courts and tribunals that are trying cases against individuals charged with genocide, crimes against humanity, or war crimes. The mandate of an international court or tribunal may be temporary, as for the ICTY (International Criminal Tribunal for former Yugoslavia), or permanent, as for the ICC (International Criminal Court). If the court or tribunal in a specific case requests protection for witnesses and their family members, Sweden will grant protection according to the provisions in this chapter.

It should be noted that this kind of protection case is the only kind that can be applied for, examined, and decided even though the alien is not present in Sweden. These cases may be examined within the framework of the asylum procedure, but protection may also be granted before the alien arrives in Sweden.

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<sup>27</sup> See also Preparatory Report 2004/05:170, page 226.

### **3. Procedure(s) Followed and Rights Provided**

#### **3.1. Rights Provided During the Asylum Process**

During the asylum process and until the alien leaves Sweden or is granted a residence permit, the alien is provided housing in a reception/accommodation centre operated by the Migration Board or an apartment run by the Migration Board. The alien is free to arrange other housing at his or her own expense.

During the asylum process and until the alien leaves Sweden or is granted a residence permit, the alien is entitled to social benefits, necessary medical care, and education as provided by the Reception of Asylum Seekers and Others Act (1994:137). This law is also applicable to aliens who are granted temporary protection under Chapter 21 of the Asylum Act – in the event of a mass influx of displaced persons – but ineligible for registration in the population registry.

If an asylum applicant is able to provide documentary proof of identity, the applicant is exempt from the requirement to have a work permit if the Migration Board estimates that it will take more than four months to reach a decision on the application. The exemption applies until the alien has left the country, provided that he or she cooperates in the return.

#### **3.2. Freezing the Decision**

Section 7 of the Swedish Administrative Procedures Act requires that each matter to which an individual is a party must be handled as simply, swiftly and cost-effectively as possible without jeopardising legal security. The provision makes it impossible to “freeze” the asylum case or a decision on asylum in order to await further investigation for any longer than absolutely necessary to uphold legal security. However, when a removal order has taken legal force, the order may be suspended until an impediment to enforcing the removal order has been investigated and a decision taken.

#### **3.3. Civil Registration**

When protection status has been approved, the alien is normally granted a permanent residence permit. All aliens who receive residence permits valid for a year or more and who intend to reside in Sweden for a year or more are registered in the Swedish National Population Registry. The only exceptions to this rule are diplomats and aliens granted temporary protection under Chapter 21 of the Aliens Act – hence, in the event of a mass influx of displaced persons. In the latter case, aliens cannot be registered until it becomes likely they will reside in Sweden for three years or more, unless there are exceptional reasons for registration.

### **3.4. Renewal of Residence Permit**

Most aliens in need of protection receive a permanent residence permit. Temporary permits are granted in only a few cases.

Under Chapter 5, Section 7 of the Aliens Act, temporary residence permits are granted if, in view of the alien's expected way of life, there is doubt as to whether a residence permit should be granted. This clause is mainly used in cases where aliens have been convicted of minor offences but not crimes whose seriousness would make the alien ineligible for a permanent residence permit.<sup>28</sup> A temporary residence permit can also be granted (Sections 9 – 15) if:

- the alien is granted residence permit on grounds of illness and the need for care in Sweden is of a temporary nature;
- there is a temporary impediment to enforcing a refusal-of-entry or removal order;
- the alien needs care under the Care of Young Persons (Special Provisions) Act (1990:52), or;
- the presence of a child or a man is necessary in order to carry out a paternity investigation.

In addition, a person in charge of a preliminary investigation in a criminal case (a police officer or public prosecutor) may apply for a temporary residence permit for an alien whose presence is essential in a criminal case.

When the temporary residence permit has expired, the alien may apply for a new permit. If the alien already has a final and non-appealable removal order that is still valid, the case can only be examined if there are impediments to enforcing the removal order. If the alien has not received a removal order, or if an earlier removal order has expired, a new asylum procedure will be initiated.

### **3.5. Social Benefits**

Civil registration of an alien in the population registry has several legal effects. The right to most social benefits is based on legal residence and a person registered in the population registry is generally accepted as a legal resident of Sweden. When an alien is granted a permanent or temporary residence permit that makes him or her eligible for civil registration, he or she will have access to social rights and benefits on the same terms as for Swedish citizens.

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<sup>28</sup> Criminal activities which constitute a threat to public order and security have been specified in Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification.

### **3.6. Medical Care**

When an alien is granted a permanent or temporary residence permit that makes him or her eligible for civil registration, the alien will have access to medical care on the same terms as for Swedish citizens.

### **3.7. Access to the Labour Market**

Aliens who are granted permanent residence permits do not need separate work permits. They are allowed to work as employees on the same terms as for Swedish citizens. Self-employed aliens do not need work permits.

If an alien is granted a temporary residence permit that makes him or her eligible for civil registration, he or she will also be granted a work permit valid for the same period. The alien will thus be able to work as an employee on the same terms as for Swedish citizens.

### **3.8. Education**

Rights and access to preschool, child-care and education in Sweden are based on residency, not citizenship. In these respects, no distinctions are made between aliens and Swedish citizens.

Education is compulsory for all children residing in Sweden aged seven to sixteen, whether or not they hold a residence permit. Children residing in Sweden also have the right to attend secondary school. However, children who have applied for asylum have the right and are afforded the opportunity to attend school, but attendance not compulsory.

Adult refugees and individuals in need of protection have a right to participate in municipal education for adults on the same terms as for Swedish citizens. However, this does not apply to asylum applicants until they are granted a residence permit.

University studies and other postgraduate education are open to all citizens and stateless persons and legal residency in Sweden is not required.

### **3.9. Travel Documents, Identification Documents and Passports**

Swedish law does not restrict an alien's right to move, settle or travel within the country if he or she has a residence permit. Travel documents are issued for all asylum applicants upon application. The Swedish Aliens Act meets the requirements of the Convention Relating to the Status of Refugees of 28 July 1951. A stateless person can apply for a travel document according to the

Convention Relating to the Status of Stateless Persons of 28 September 1954. All travel documents may include a proviso that the holder's identity has not been confirmed.

An "alien's passport" may be issued upon application if an alien has no document that is valid as a passport and is unable to procure such a document. The period of validity of an alien's passport is limited to no more than five years, and a proviso may be entered on the passport – either upon issue or later – restricting its territorial validity. A proviso may be entered on an alien's passport, upon issue, that the holder's identity has not been confirmed.

The Swedish Tax Agency may upon application issue national identity cards to anyone registered in the population registry as long as they can satisfactorily prove their identity.

### **3.10. Family Reunification (and Family Formation)**

When an alien has been granted a permanent residence permit, there are no obstacles to his or her family (spouse and children under 18 years of age) also applying for residence permits. If the marriage was established abroad and the family lived together abroad on a permanent basis, the spouse and children will be granted permanent residence permits. Otherwise, they will be granted temporary residence permits for the first two years. Thereafter, they are usually granted a permanent residence permit.

An alien who is a parent of an unmarried alien child who is a refugee or a person otherwise in need of protection may also be granted a permanent residence permit if the child arrived in Sweden separated from both parents, or separated from another adult person who may be regarded as standing in loco parentis, or if the child was abandoned after arrival. More distant family members may be granted residence permits on grounds of family reunification if they were formerly members of the same household and there is a special relationship of dependence between the relatives which already existed in the country of origin.

When there are "exceptional grounds", a residence permit may also be granted to an alien if he or she is a relative of an alien who is a refugee or a person otherwise in need of protection. This clause requires that the person resident in Sweden has no other relatives in Sweden and that the resident alien and the applicant had a pre-existing close relationship.

### **3.11. (Building up Rights for) Naturalisation**

An alien can acquire Swedish citizenship if he or she has provided proof of identity; has reached the age of eighteen; holds a permanent Swedish residence permit; and has resided in Sweden for a specified period. The residency requirement varies: two years for Danish, Finnish, Icelandic and Norwegian

citizens; four years for refugees and stateless persons; five years for other aliens. An applicant who cannot provide proof of identity may be naturalised only if he or she has resided in Sweden for at least eight years prior to the application for citizenship.

The alien can build up residency that includes all periods with a residence permit, as long as the periods are contiguous, regardless of whether the permit was temporary or permanent. However, as mentioned above, aliens must hold a permanent Swedish residence permit in order to obtain citizenship.

## 4. Statistics on Protection

The statistics demonstrate obvious effects of the Government's legal amendments and decisions in recent years. The new Aliens Act<sup>29</sup> has had an effect, but the temporary law (granting residence permits to a significant number of people who had been living in Sweden for a long time) also had considerable impact. Applications for residence permits under the temporary law were addressed to the Migration Board from 15 November 2005 to 31 March 2006, but some decisions were delayed until 2007 due to the large number of applications.

The new Aliens Act (which entered into force on 31 March 2006) made it possible to grant residence permits due to impediments to enforcing a removal order, and such decisions can be seen from 2007 and onwards. Previous to the new Aliens Act, there was an established practice of "new application" that made it possible to grant a residence permit after a negative decision had taken legal force. These permits are included under the other categories shown in the table.

Year	Asylum applications	Geneva Convention	Subsidiary protection	<i>of which</i> according to EU directive	<i>of which</i> according to national legislation	Exceptionally distressing circumstances/Humanitarian protection	Quota refugees	Temporary law	Total granted protection statuses
2004	23,161	546	729	668	61	3,043	1,822		6,140
2005	17,530	790	1,174	1,133	41	2,487	1,263	2,362	8,076
2006	24,323	963	3,728	1,176	2552	3,657	1,626	1,068 9	20,663
2007	36,205	1,113	10,208	1,564	8,644	3,938	1,845	318	18,290
2008	24,349	1,934	5,278	2,030	3,248	1,571	2,209	14	11,173

**Table 1. Number of persons granted residence permits and grounds**

Table 1 provides an overview of persons granted permanent residence permits during the years in focus for this study, as well as the grounds on which these permits were granted. As shown in the table, the number of asylum applicants increased in 2007 whilst the number of residence permits peaked in 2006. In 2006, the temporary law affected the number of permits granted. In 2007, the practice regarding asylum applicants from Iraq was the main reason for the high number of residence permits. The number of Iraqi asylum applicants remained high until the practice was changed in late 2007.

Notably, there was a substantial increase in number of residence permits based on "subsidiary protection due to national legislation" as an effect of the new

<sup>29</sup> The Aliens Act (2005:716).

Aliens Act of 2006. There was an obvious increase of the number of persons granted refugee status.

The number of asylum applications from unaccompanied minors (up to age 17) has increased rapidly. There were 398 in 2005; 820 in 2006; 1,264 in year 2007; and 1,510 in 2008.

### **Grounds for residence permits distributed by the six most frequent nationalities**

Table 2 presents the six main nationalities distributed according to the grounds upon which permits were granted. Naturally, there are several other “frequent” nationalities found within the total amount. The most frequent nationalities, which are the same for all years presented in the table, were selected on the basis of 2008 figures.

Permits based on the Geneva Convention increased during the period from 9 percent in 2004 to 17 percent in 2008 of all permits granted to applicants for asylum in 2008.

Also noteworthy is the increase in the number of subsidiary protection statuses based on national legislation between 2007 and 2008. Nearly 30 percent of permits granted in 2008 were based on this status.

### **Further details on statuses**

#### **The Geneva Convention**

It is evident that one effect of the changed legislation (the new Asylum Act) is an increase in the number of people considered in need of protection under the Geneva Convention. This number has nearly quadrupled during the five years in focus for this study.

#### **Subsidiary Protection According to EU Directives**

The number of residence permits granted under EU directives also increased during the years studied. The dominant nationality granted such protection were Somalis, although many Iraqis and Eritreans were also granted residence permits on these grounds.

#### **Subsidiary Protection According to National Legislation**

It is evident that Iraq is also the dominant nationality for residence permits granted on grounds of subsidiary protection under national legislation. However, it should be noted that the first two years of the study are not included in this table since the numbers in those years were insignificant.

#### **Exceptionally Distressing Circumstances/Humanitarian Protection**

It is evident that these grounds for protection have become more unusual due to the implementation of the new Aliens Act. The nationalities most frequently granted residence permits on these grounds during all years of the study are Serbia-Montenegro, Iraq and Somalia. Several stateless persons have also been granted residence permits on humanitarian grounds.

## Table 2

Country	Asylum a	Geneva c	Subsidiary protection according to EU directive	Subsidiary protection according to national legislation	Exceptionally distressing circumstances/Humanitarian protection	Quota refugees	Temporary law	Residence permit due to impediments to enforce a removal order
2004								
Afghanistan	903	19	80	3	72	318		
Eritrea	395	20	70	0	25	18		
Iraq	1456	10	94	7	235	38		
Iran	660	79	23	1	102	627		
Somalia	905	72	162	10	400	42		
Serbia	4022	189	8	0	477	1		
<b>Total</b>	<b>23161</b>	<b>546</b>	<b>668</b>	<b>61</b>	<b>3043</b>	<b>1822</b>		
Percentage women	36%	38%	58%	56%	49%	48%		
Percentage children	28%	36%	46%	49%	43%	44%		
2005								
Afghanistan	435	8	83	13	87	183	13	
Eritrea	425	29	363	2	45	20	12	
Iraq	2330	15	241	5	281	64	1086	
Iran	582	59	16	0	46	9	100	
Somalia	422	210	225	4	209	14	179	
Serbia	2944	290	17	1	420	0	331	
<b>Total</b>	<b>17530</b>	<b>790</b>	<b>1133</b>	<b>41</b>	<b>2487</b>	<b>1263</b>	<b>2362</b>	
Percentage women	36%	37%	49%	54%	53%	47%	45%	
Percentage children	27%	31%	30%	27%	40%	45%	39%	
2006								
Afghanistan	594	29	46	7	85	226	408	
Eritrea	608	72	259	2	27	2	86	
Iraq	8951	201	474	1950	1516	79	3025	
Iran	494	60	25	0	83	146	476	
Somalia	1066	113	102	127	501	42	1434	
Serbia	2001	285	34	8	374	0	1631	
<b>Total</b>	<b>24323</b>	<b>963</b>	<b>1176</b>	<b>2552</b>	<b>3657</b>	<b>1626</b>	<b>10689</b>	
Percentage women	34%	48%	43%	37%	44%	51%	42%	
Percentage children	26%	36%	31%	27%	31%	48%	33%	
2007								
Afghanistan	609	39	75	5	195	185	14	5
Eritrea	878	119	357	1	45	6	12	3
Iraq	18559	177	678	7421	1557	732	104	26
Iran	485	74	33	2	64	73	16	22
Somalia	3349	117	121	768	850	7	10	0
Serbia	2500	224	0	1	277	6	72	59
<b>Total</b>	<b>36205</b>	<b>1113</b>	<b>1564</b>	<b>8644</b>	<b>3938</b>	<b>1845</b>	<b>924</b>	<b>262</b>
Percentage women	31%	45%	36%	30%	42%	50%	47%	52%
Percentage children	21%	31%	23%	20%	42%	42%	45%	27%
2008								
Afghanistan	784	71	129	195	93	414	0	12
Eritrea	857	171	460	6	25	101	1	6
Iraq	6083	704	827	2105	367	221	11	4
Iran	799	137	50	1	30	97	9	2
Somalia	3361	361	250	714	216	50	2	0
Serbia	958	52	13	4	189	2	0	19
<b>Total</b>	<b>24349</b>	<b>1934</b>	<b>2030</b>	<b>3248</b>	<b>1571</b>	<b>2209</b>	<b>45</b>	<b>136</b>
Percentage women	35%	45%	43%	39%	43%	48%	53%	49%
Percentage children	26%	31%	24%	30%	55%	44%	22%	37%

## 5. National Opinions on the Granting of Protection

In order to provide, insofar as possible, an objective overview of the granting of protection in Sweden, a few knowledgeable national network members were invited to comment on an earlier draft of this study. The comments from Public Counsel Kent Troedsson, member of the Swedish Bar Association; Judge Madeleine Westberg of the Migration Court in Malmö; and Liv Feijen of UNHCR Sweden are presented below.

### 5.1. Positive and Negative Impacts of the National Statuses

The consequences of the changes brought about by the new Aliens Act have been controversial to some extent, primarily with regard to the oral hearings and the court system (the Migration Courts). Opinions concerning protection statuses have mostly evolved around the interpretation of the protection statuses. For instance, Kent Troedsson states that “[t]he clauses on protection are relatively vague, which is not optimal but perhaps unavoidable. The system puts high demands on the Migration Board, the Migration Courts, and especially the Migration Court of Appeal, which establishes case law. It is important that the courts’ independence vis-à-vis the Migration Board is upheld, especially when it comes to determining whether the security situation in a country should be assessed as an “internal armed conflict” or “other severe conflict”.

The debate has also concerned whether enforcement and interpretation of protection statuses have been more restrictive than lawmakers intended. As Liv Feijen put it: “the question at hand is whether practice shows that legislative intentions have been considered when providing protection to those in need, or if practice has become more restrictive than originally intended. The criteria stipulated for protection on the basis of “severe conflict” set a high threshold since personal persecution and a nexus between the human rights violations and the conflict must be proven. At the same time, the interpretation of “armed conflict” as required for subsidiary protection has until recently been quite restrictive. The result may be that persons genuinely in need of protection may in practice have been found ineligible for protection status, and have therefore resorted to applying for pure humanitarian status. However, the proposal to harmonise the standard of proof for all forms of protection to “substantial grounds for believing that a person may face a real risk”, instead of a “well-founded fear”, would lower the threshold to a more satisfactory level for what needs to be proven in order to qualify for protection in cases of “severe conflict”. Moreover, in light of the Migration Court of Appeal’s latest interpretation of the term “internal armed conflict”, more persons in need of international protection would be eligible for protection in line with European and international standards and practice. Notably, protection on the grounds of “severe conflicts” is primarily granted to the major caseloads of asylum applicants who were previously granted humanitarian status – for instance, applicants from Somalia, Iraq, and Burundi – which is an improvement compared to previous practice.”

Lately, the limited avenues for granting asylum on humanitarian grounds have been discussed. For instance, a couple of public counsel attorneys raised the question in media whether the new Aliens Act is more inhumane than the previous one. In addition, Madeleine Westberg provides the following comments on the subject:

“In asylum cases, it is often argued secondarily that the applicant should be granted humanitarian protection (Chapter 5, Section 6 of the Aliens Act) – yet another basis that falls outside the scope of the Council Directives. However, this provision requires “exceptionally distressing circumstances”. Lawmakers intended restrictive application, which has been confirmed by the Migration Court of Appeal’s case law. Difficult assessments sometimes have to be made, for example when deciding whether the applicant’s health has deteriorated to the point where it is appropriate to grant a residence permit. This assessment must consider whether the severity of illness has reached the threshold; whether the illness has been sufficiently documented; whether or not the alien will have access to adequate treatment in the country of origin; and whether it is reasonable for treatment to be provided in Sweden. In such assessments, adequate information about the availability of medical treatment in the applicants’ country of origin is significant. The clause concerning humanitarian protection also requires the court to consider the alien’s situation in the country of origin, which also involves difficult assessments. In this assessment, the boundaries between the need for international protection as a refugee and subsidiary protection must be considered. The Migration Court of Appeal has ruled that different grounds for protection should not be combined, which makes it necessary to separate the arguments for protection due to the situation in the country of origin.”

The matter is also addressed by public counsel attorney Kent Troedsson: “[t]he Swedish regulation on humanitarian protection requires the existence of exceptionally distressing circumstances. The regulation provides relatively narrow scope for granting a residence permit, which has also been established in case law. A restrictive approach has been taken to humanitarian grounds that can be attributed to the applicant’s health. In my experience, the interpretation of the clause relating to children is also rather strict in comparison to its wording and does not comply with the UN Convention on the Rights of the Child.”

According to Mr Troedsson, the development of the Aliens Act “has in a general sense limited the scope for discretionary assessment of the grounds for a residence permit. This is particularly apparent in the area of national statuses that are not covered by the Council Directives. The political/humanitarian grounds, which previously allowed relatively broad latitude for granting a residence permit, have been removed and replaced by a regulation that limits avenues for granting a residence permit. Since the amendment, the Aliens Act has also limited opportunities for granting residence permits to relatives left behind in the country of origin who want to join the alien resident in Sweden”.

## 5.2. Problems Encountered

The problems encountered are a result of the new legal order rather than the protection statuses as such. As expressed by Kent Troedsson: “The report [amongst other matters] describes the procedure after a removal order has taken legal effect. As mentioned [in the report] re-examination of the matter can be requested upon application, with regard to impediments to enforcing the removal order under Chapter 12, Section 19 of the Aliens Act. From the point of view of public counsel, the absence of the right to appeal a decision by the Migration Board under the clause in Chapter 12, Section 18 of the Aliens Act is inappropriate. It also seems questionable that the authorities, in the asylum procedure or in connection with an application to examine impediments to enforcing the removal, are not permitted to consider that it will in practice be virtually impossible to enforce the removal order for a very long time. This problem has actually led to large groups of aliens being stranded in Sweden without a residence or work permit or access to the social welfare system [...]. This ought to be unacceptable from the perspective of both society and the individual, and has several times forced the Government to issue temporary laws with summary proceedings to resolve the situation”. (Written comment by Kent Troedsson.)

UNHCR has provided some criticism concerning the reason for protection and the divergence between political asylum and natural disasters. As expressed by Liv Feijen: “UNHCR believes that individuals who cannot return to their country of origin because of a natural or ecological disaster do not generally fall under the protection regime of the 1951 Convention, unless access to national protection is denied on the basis of grounds provided in the Convention. In the past, the UNHCR Executive Committee has argued that return of individuals who have fled natural or ecological disasters to their country of origin might in exceptional circumstances reach a level of severity tantamount to inhumane treatment, which consequently gives rise to protection from *refoulement* under human rights instruments.<sup>30</sup> UNHCR furthermore advise against confusing persons in need of protection with migrants in need of humanitarian assistance or other forms of assistance and thus not under the scope of international protection, as this may undermine the international refugee protection regime.<sup>31</sup> UNHCR therefore supports the conclusion by the Commission of Inquiry that persons forced to leave their countries due to ecological or environmental disasters should be given residence permits, but in a separate procedure from that used to determine a need for protection.”

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30 “Asylum in the European Union. A study on the implementation of the Qualification Directive,” UNHCR, November 2007, paras 10, 19 and 22.

31 “Climate change, natural disasters and human displacement: a UNHCR perspective”, UNHCR, 2009.

## 6. Conclusions

The Swedish Government has recently analysed the national regulation – the Aliens Act (2005:716) – and found the definition of “refugee and the regulations on refugee status in the Qualification Directive 2004/83/EC to be consistent with the Swedish regulation. The government analysis also concluded that the definition of an alien in need for subsidiary protection in the Qualification Directive 2004/83/EC is covered by the national regulation. However, it should be noted that the Swedish Government considers the Aliens Act somewhat more generous than the regulation for subsidiary protection in the Qualification Directive, since the Swedish regulation covers “other severe conflicts”.

Moreover, the Swedish Aliens Act recognizes four national statuses not covered by the Council Directives:

- subsidiary protection due to “other severe conflicts” (an extension of “international or national armed conflict”) in the country of origin, if the individual has a well-founded fear of being subjected to serious abuse;
- subsidiary protection of an alien unable to return to the country of origin due to an environmental disaster;
- humanitarian protection, and;
- protection to tribunal witnesses.

Of the above, “subsidiary protection due to other severe conflicts in the country of origin” and “humanitarian protection” are granted more frequently, whereas cases of protection granted to tribunal witnesses are thus far very rare in Sweden. It should also be noted that subsidiary protection due to environmental disasters has thus far not been applied in Sweden.

Sweden granted significantly more residence permits on grounds not covered by the Council Directives than on grounds covered by the Council Directives during a period of time under the previous Aliens Act. The current Aliens Act, which entered into force in 2006, altered the focus to some extent towards granting protection under the Council Directives. The main reason for this changed focus is the amendment of the clause granting humanitarian protection, although the procedural amendments of the law have also had an impact. The amendment of the clause granting humanitarian protection, combined with case law, has led to fewer decisions granting humanitarian protection and more decisions granting refugee status or subsidiary protection.

In addition, the procedural changes in the current Aliens Act have made it less possible to grant humanitarian protection – especially after a removal order has taken legal effect. The former Aliens Act allowed unlimited opportunities to appeal a negative decision to the Aliens Appeal Board and there were no restrictions on lodging new applications to the Aliens Appeal Board after a removal order had taken legal effect. The system created exceptionally long “turnaround time” for each case and an insupportable workload for the Aliens

Appeal Board. The long turnaround time, in turn, increased the numbers of people eligible to claim humanitarian grounds.

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Lifos No. 18223

## **Interviewees**

**Mr Kent Troedsson**, public counsel. A practicing lawyer since 1988, Mr Troedsson was admitted to the Swedish Bar Association in 1991. He has worked as public counsel in alien's cases since 1988.

**Judge Madeleine Westberg**. Judge Westberg is on the bench of the Migration Court in Malmö within the Skåne County Administrative Court. Judge Westberg has experience in migration issues through her former position as a litigation officer for the Migration Board; as secretary of a committee attached to the Swedish Government during the implementation of the Council Directive on the right to family reunification (2003/86/EC), and in connection with the drafting of new legislation on labour immigration.

**Ms Liv Feijen**, attorney. Ms Feijen is a specialist in public international law and holds an MA from the Raoul Wallenberg Institute of Human Rights and Humanitarian Law at Lund and the Graduate Institute of International studies in Geneva. Ms Feijen also has a Diploma in International Human Rights Law from the Institute of International Human Rights in Strasbourg. Ms Feijen has worked as a legal adviser for United Nations High Commissioner for Refugees since 1997, posted at UNHCR HQ and in various field locations including the Balkans, Africa and Asia. Ms Feijen is currently the senior regional protection officer for the Baltic and Nordic countries.