

RESPOND

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Refugee Protection Sweden Country Report

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List of Abbreviations

SMA	Swedish Migration Agency
AMIF	Asylum, Migration and Integration Fund
CEAS	Common European Asylum System
CJEU	Court of Justice of the European Union
EASO	European Asylum Support Office
ECHR	European Convention on Human Rights
EC	European Community
FARR	Swedish Network of Refugee Support Groups/ Fflyktinggruppernas Riksråd
IFA	Internal Flight Alternative
IRO	International Refugee Organisation
LMA	Act on the Reception of Asylum Seekers
MUCF	Swedish Agency for Youth and Civil Society/ Myndigheten för ungdoms och civilsamhällesfrågor
OAU	Organization of African Unity
PSG	Members of Particular Social Groups
SACO	The Swedish Academy's Central Organization
SD	Swedish Democrats (Sverigedemokraterna)
SiS	Swedish National Board of Institutional Care/ Statesns institutions styrelse
TCO	The Official Organization of the Officials
UNCRC	United Nations Convention on the Rights of the Child
UNHCR	United Nations High Commissioner for Refugees
UNRRA	The United Nations Relief and Rehabilitation Administration

About the Project

RESPOND is a three-year project (2017-2020) that is funded by the European Commission (EC) under Horizon2020 Programme with the goal of enhancing the governance capacity and policy coherence of the European Union (EU), its member states, and neighbours. RESPOND is a comprehensive study of migration governance in the wake of the 2015 Refugee Crisis which is one of the biggest challenges that the Union has faced since its establishment. The crisis foregrounded the vulnerability of European borders, the tenuous jurisdiction of the Schengen system and broad problems with multi-level governance of migration and integration. One of the most visible impacts of the refugee crisis has been the polarization of politics in EU Member States and intra-Member State policy (in)coherence in responding to the crisis.

Bringing together 14 partners from 7 disciplines, RESPOND aims to:

- provide an in-depth understanding of the governance of recent mass migration at macro, meso and micro levels through cross-country comparative research;
- critically analyse governance practices with the aim of enhancing the migration governance capacity and policy coherence of the EU, its member states and third countries.

RESPOND is a comprehensive study of migration governance in the wake of the 2015 Refugee Crisis. The project probes policy-making processes and policy (in)coherence through comparative research in source, transit, and destination countries.

RESPOND addresses how policy (in)coherence between the EU, Member States (MSs) as well as between states differentially positioned as transit, hosting and source countries affect migration governance. Specifically, by delineating interactions and outcomes between national refugee systems and the EU, we will analyse the reasons behind the apparent policy incoherence.

RESPOND studies migration governance through a narrative which is constructed along five thematic fields: (1) Border management and security, (2) Refugee protection regimes, (3) Reception policies, (4) Integration policies, and (5) Conflicting Europeanization. Each thematic field is reflecting a juncture in the migration journey of refugees and designed to provide a holistic view of policies, their impacts and responses given by affected actors within.

The work plan is organized around 11 work packages (WPs) – of which 8 have research tasks. The project also includes two WPs to organize impact-related activities targeting different audiences, including the scientific community, policy actors and the public in general.

Executive Summary

The Swedish Migration Agency (SMA) described the extraordinary situation and the asylum seekers influx during the fall of 2015 as the biggest challenge that Sweden as a country and the Migration Agency as an institution had ever experienced in the contemporary history. The SMA and the other society institutions were exposed during the circumstances of this crisis to enormous strains. On the other hand, the respond on the European level to deal with this unusual situation was not effective as the Migration Agency described it (SMA, 2016). During few months in the end of 2015, Sweden received unprecedented number of asylum seekers and the total number of them during the whole year was 162,877. This was more than the total number of asylum seekers from former Yugoslavia (over 100, 000 people mainly from Bosnia) who received protection in Sweden because of the war during the 1990s (SMA, 2019).¹ As a result, Swedish asylum and protection policies and eventually the Swedish migration laws moved dramatically from the most generous to the so-called minimum European Union (EU) level (SMA, 2019).

On 24th November 2015, the Swedish government presented restrictive measures as an attempt to reduce the number of asylum seekers coming to Sweden. It submitted a government bill (2015/16:174) to make changes in the Aliens Act (2005:716) through introducing a temporary act to limit the possibility for residence permits and family reunification. This bill suffered from many legal and legislative lacunas because of its exceptionally fast legislative process as well as its unusual aims (Hagsgård, 2016). Therefore, this bill got many criticisms by all the involved actors during the referral process due to its potential and negative humanitarian and legislative consequences. Nevertheless, the government moved on with it and the Swedish Parliament (Riksdagen) passed the Temporary Act (2016:752). This occurred under main justification that it was a temporary legislative change for the earlier unprecedented circumstances and huge pressure that caused tremendous strains to the main society functions.

The SMA during and after the so-called 2015 crisis had emergency situation in relation to the human recourses to deal with and handle unprecedented number of asylum seekers coming to Sweden. Therefore, big number of staff were recruited during 2015, 2016 and 2017 and then a big number of staff had to leave the SMA because of the decline in the number of the asylum applicants during 2018 and 2019. In the beginning of 2019, the recruitment situation got stabilized and the case officers or investigators got more experienced after few years work and better possibility for education and training.

The overall stand towards migration among most Swedish political parties changed as a result of the so-called 2015 refugee crisis (Emilsson, 2018, p. 11). This change in the Swedish political landscape was clearly expressed in the Swedish Prime Minister speeches and position during a very short period in the end of 2015. Stefan Löfven showed a strong support to the asylum right in September 2015 when he gave a public speech stating the following wording “My Europe does not build walls” (*Mitt Europa bygger inte murar*). In very short period in the same year, Löfven’s government declared the need to take drastic efforts to restore control over the situation which were perceived as a threat to Sweden (Borevi and Shakra, 2019, p. 13). The far-right and anti-migration party “the Swedish Democrats” (Sverigedemokraterna, SD) had occupied the position of third biggest party in 2014 election

¹ The peak was in 1992 when 84, 018 asylum seekers whereof about 69, 000 persons were from Yugoslavia (EMN, 2013)

for the electoral period from 2014-2018 for the first time. The general trend within the Swedish political parties before 2015 had still been a general consensus to favour a generous immigration policy. In the 2018 parliamentary elections (Riksdagsvalet), the SD reached 17,5% of the seats in parliament, that is even more than 2014 elections. As a consequence, the longest period of government formation in modern Sweden's history took place after the 2018 election. Furthermore, a migration discourse, similarly to other European countries, had shifted to the right with the rise of the far-right populist party Sweden Democrats. The reason that it took the parties of the Swedish parliament about four months to form a government was highly related to migration policy.

A significant number of the newly arrival asylum seekers in 2015 were unaccompanied minors (35,369) and two third of them (17,568) were between 16-17 years old. The unprecedented number of asylum applications was one of several reasons to prolong the handling period of the asylum cases. This meant that many unaccompanied minors turned above 18 years old during the waiting period which decreased their chance to be granted a refuge in Sweden. The coalition government of the Social Democrats and the Green Party took a new initiative on humanitarian grounds to deal with this situation because of the undue asylum process in two stages. The first one was on 1 June 2017 to grant a study residence permit allowing those who were studying to prolong their residence permit to pursue their secondary studies or equivalent, or vocational training via an amendment to the Temporary Act (SFS 2017:352). The second stage introduced a new regulation (SFS 2018:756) called Act on Upper Secondary School Education (gymnasielagen). This new regulation became a new section of the Temporary Act (Chapter 16 a-f §) not an independent act. The new regulation allowed a big number (around 7,000) of those young asylum seekers, whose asylum applications were rejected, to get a residence permit with the purpose to pursue their secondary studies or equivalent or vocational training. This was under certain conditions and they had to apply for a study residence permit between 1 July 2018 and 30 September 2018 (Länsstyrelsen, 2018). This humanitarian initiative was positively welcomed by many actors involved in the protection regime. However, the structure and formulation of this act got many harsh criticisms almost by all of them during the referral process due to its articles' ambiguity that could jeopardise the legal certainty principle and the potential negative consequences.

The Temporary Act would have expired on 19th July 2019 and therefore the 2018 re-elected Swedish government submitted a bill to extend the already Temporary Act for another temporary period until 19th July 2021. This bill got again much harsh criticism for similar grounds but even more than the Temporary Act in 2016, particularly in relation to the negative humanitarian consequences and inconsistency of this act and its extension with the United Nations Convention on the Rights of the Child (UNCRC). Even though the number of asylum seekers declined dramatically the Swedish government still decided to move on with it (Government bill 2018/19:128). The government's argument was that the burden on the reception system was still high and the situation in many municipalities was still strained (Regeringskansliet, 2019 a).

On 29 August 2019, the SMA was one of the first national migration agencies within the EU to review the security situation in Syria and issue a new guideline, which would allow in certain cases to return certain Syrian asylum applicants to assessed safe parts in Syria (SMA, 2019 c).

The findings of this report illustrate different deficiencies and practices with potential negative consequences in the protection regime in Sweden. Therefore, policy brief and different

recommendations are provided in this report such as the need to increase the effort to find reforms and a common ground in the interpretation and implementation of the Dublin regulation. This is recommended to happen in light of the application of the internal flight alternative and security assessment of the country of origin in European level. Another recommendation is related to the necessity for a reform in the Swedish system for the subsidised legal representation. This report shows also that the cut in the SMA's budget by the Swedish government has had negative consequences and will have potential ones in relation to the quality of case handling and justice system and its legal certainty and strategic planning. Simultaneously, this report provides several examples of positive or best national practices in relation to the Swedish protection regime. For example, a new Administrative Act (Förvaltningslag 2017:900) was passed in Sweden which strengthens the individual position towards the public authorities including the SMA. Another example is that Swedish Migration laws are still pro-child in many aspects even though the Temporary Act was to be criticized in this regard. For example, the Temporary Act itself in 2016 in its article 10 privileged asylum family with children and exempted them from the maintenance requirements in order to apply for the family reunification. The act on upper secondary school education is another example.

1. Introduction

The main objective of this report is to describe and investigate the impact of recent migration and asylum seekers influx on the asylum determination system and protection regime in Sweden since 2011 onwards, particularly before and after the so- called 2015 refugee crisis. This report in the work package three (WP3) in RESPOND research project aims to complete the research that started with the report of the work package one (WP1) whose focus was on the legal and policy framework of the Migration governance in Sweden. The main contribution of this report in comparison with the WP1 report is related to microanalysis as well as meso and macro analysis in the sections 5, 6, 7 and 8. Therefore, the voices of the asylum seekers, beneficiaries of subsidiary protection and other form of protection statuses are represented in the microanalysis. In addition, the voice of the main involved actors from the authority and institution side is also represented in this meso and macro analysis. The WP1 did not include this analysis and covered the legal, political and institutional developments until the beginning of 2018 while this report provides the updates of these developments until October 2019.

This report investigates the legal, legislative and constitutional structures of the Swedish protection regime, and its implementations, particularly before and after the so-called 2015 crisis. In addition, this report aims to explore the socio-economic and political aspects of this regime and the governance policies of it in order to observe their impacts on the receiving society as well as newly arrival communities in Sweden.

The third section of this report aims to provide an overview of the legislative, constitutional and legal framework of the protection regime in Sweden. The special formulation of the Swedish constitutional framework is presented here and its influence on the protection regime in Sweden. The Swedish law making and legislative process are explained, particularly in relation to the legal developments and changes within the migration regulation. The main acts regulating migration and asylum in Sweden are also presented in this section where the complementary role of these different acts in ruling the different aspects of migration is explained too. The judicial system in Sweden plays a central role in the legal development of each regulation through its interpretation, guidance and precedents and therefore its essential role within the legal field of migration and asylum is also discussed here. How the Swedish government administrates the migration and protection related matters through certain divisions in the Ministry of Justice is an important part of this section. Further, the role of the different governmental agencies and authorities in implementing the protection related policies is also another important part of the section. This section ends with statistic updates concerning the outcome of the implementation of the protection system in Sweden which were provided in the report of the work package 1.

The fourth section focuses on the Swedish government's narratives towards the protection related matters before and after 2015. The political and legal developments before and after the year 2015 are a main topic of not only this section but also the whole report. However, this section aims to provide a theoretical summary of these legal and political changes in order to prepare the reader to grasp the analysis of the implementation of these legal and political changes from micro, meso and macro levels in the fifth section. Therefore, the current government policy towards the protection and migration related matters is essential part of this section. The government-building crisis in the year 2018 is relevant to the government current policy in relation to migration and refuge since this topic was a dispute area among the ruling political parties as well as the opposition parties.

The fifth section is the core of this report. **The first part** of the section is conveying the stakeholders and involved actors' positions, experiences and attitudes towards different migration and asylum related matters **through meso and macro analysis in nine sub-sections**. The first and second sub-sections went through the legislative process and circumstances of drafting the Temporary Act (2016:752) in 2016 and its extension in July 2019 where different comments from different involved actors, such as the Swedish Migration Court of Appeal, during the referral process were presented. In addition, different quotations from the interviews with stockholders concerning their experiences of the implementation of the Temporary Act were added and reflected on here. The Act on Upper Secondary School is a very important humanitarian initiative taken as a result of the 2015 crisis and the undue delay in the asylum process in Sweden. The legal lacunas of this act and their potential negative consequences are discussed through quotations and citations from different involved authorities such as the SMA in the third sub-section. The fourth sub-section analyses the management of the Migration Agency's recruiting process and human resources before and after the implementation of the 2016 Temporary Act and its deficiencies. The fifth sub-section discusses how limiting the budget has left gaps in the Migration agency's services and performance. The sixth sub-section is about the situation of subsidized legal representation for the asylum seekers by the Migration Agency and its deficiencies and reasons behind them from the Agency's perspective. The last three sub-sections discuss the reasons behind the journey of the asylum seekers to and from Sweden from and to other EU member states seeking a second asylum. Thus, the implementation of Dublin regulation in Sweden in comparison to other EU member states is discussed. In addition, its interactive interplay with application of the internal flight relocation assessment and the security evaluation of the country of origin is analysed here. **The second part** of this section aims to reflect on the reality and experiences of the newly arrived asylum seekers, refugees and beneficiaries of subsidiary protection status and other forms of protection through **the micro analysis**. Firstly, profound analysis and different quotations are extracted and provided throughout the whole section. The first sub-section deals with the reasons behind their choice to seek asylum in Sweden. Secondly, a great focus is given to their experiences during the entire asylum procedure, beginning from the registration, through the asylum interview and the waiting period to receive the asylum decision. The third sub-section presents special needs of different vulnerable groups among asylum seekers and the obstacles in meeting these needs. In its fourth and fifth sub-sections, thereport also analyses and extracts different quotations reflecting on asylum seekers' experiences with the actors involved in the protection regime and the shortcomings in accessing the legal counselling.

The sixth section presents and analyses some of the most positive and best national practices in relation to the protection regime in Sweden during the period between 2011 and 2019.

The seventh section discusses some of the findings in the report in order to reflect on the current governance of the protection regime in Sweden in light of the principle of legal certainty.

The eighth section analyses the findings of this report and on the basis of these findings policy brief and policy recommendations for the most urgent and pressing protection related matters are provided here.

2. Methodology and Sources

The Sweden Country Report on “refugee protection” aims at providing a multi-level analysis of the asylum system in Sweden focusing on three levels: macro (supranational, national), meso (subnational, local, NGOs) and micro (individual). As such, it elaborates on the following research questions:

- How are national authorities, supranational actors, and non-governmental organisations implementing asylum and refugee protection policies?
- What are the perceptions and strategies of refugees when confronted by asylum systems and protection regimes?

Methodologically, the RESPOND research relies on a multi-stage research design, incorporating a variety of quantitative and qualitative methods for data gathering and analysis. The benefit of this approach is increased validity and generalizability of the results (Creswell, 2003). At many points, the project uses an advanced combination of methods. The report is based on the two main research methods: document analysis (Bowen, 2009) and qualitative thematic interview analysis (Braun and Clarke, 2013). Document analysis was used mainly in the sections: Background on the Current National Regime of Protection in Sweden and Key Narratives Regarding International Protection in Sweden, whereas thematic interview analysis was fundamental to the section Asylum Procedure and Protection Regime in Sweden: Practices, Experiences and Perceptions.

In relation to the sources used in the report, we based mainly on primary sources, namely meso- and micro-level interviews and relevant documents, though the secondary sources were also applied to provide a wider background and a further explanation of the discussed issues. Primary data were collected through: 1) Individual interviews (targeting subjects of various nationalities), 2) focus group interviews, 3) interviews with stakeholders, 4) roundtable discussions.

With regard to the micro-level individual interviews, the interviewed persons were recruited using a snowballing method and through the identification of gate keepers. In addition, using specific sampling criteria, participants were recruited more strategically in order to cover the most relevant groups of asylum seekers and refugees in Sweden. Considering the latter, the micro-level interviews were conducted among 61 participants in Sweden, between 2018-2019. For identifying interview persons a convenient sampling was used, based on the following criteria: geographical spread with paying attention to centre and periphery locations, the largest refugee groups, gender, age, religious/cultural belonging, arrival after 2011. The result and number of the interviewees are presented in Appendix A.

With respect to gender, the interviews were carried out with 28 women (46%) and 33 men (54%). When it comes to nationality, 44 out of 61 respondents were citizens of Syria (72%), 15 of Afghanistan (25%) and 2 of Iraq (3%). All age groups determined by the project criteria were represented and the percentage breakdown was the following:

- 18-29 (25%)
- 30-39 (34%)
- 40-49 (25%)
- 50+ (16%)

In terms of legal status, almost half (48%) of the respondents had acquired a refugee status (n=29), 15% were holders of temporary protection (n=9), 6% were holders of subsidiary protection (n=4), 3% were beneficiaries of family reunification (n=2), 18% were seeking for asylum (n=11) and 10% were asylum seekers at the deportation stage (n=6). We also identified 13 cases of rejection of asylum application in the first (n=4), second (n=3), third (n=4) and fourth instance (n=2), respectively.

Another significant feature of sampling criteria was Educational background. More than half of the respondents (52%, n=32) had a university degree, 23% percent accomplished higher secondary or secondary education (n=14), 10% finished elementary education (n=6), and 10% were illiterate (n=5).

As expected, ethnic and religious belonging of respondents presented the ethno-religious mosaics of countries of origin. 46% of the respondents (n=28) identified themselves as Arabs, 18% as Hazara (n=11), 6% as Assyrians (n=4), 5% as Kurds (n=3) and 3% as Tajik (n=2). In terms of religion, 59% declared to be Sunni Muslim (n=36), 18% to be Christians (n=10), 15% to be Ismaili Muslims (n=9), 5% to be atheist or non-religious (n=3), and 3% to be Druze (n=2).

The micro-level interviews were based on the semi-structured interview guideline designed by the RESPOND research team. Relevant interview questions from all work packages were put together, creating a holistic approach so participants were not exhausted by the number of questions and were interviewed only once. The questions which are based on the work package themes were linked to border management, refugee protection regimes, reception policies, and integration practices. With reference to the refugee protection regime, the respondents were asked about their participation in and experiences with the asylum procedure, their expectations about asylum process, their experiences with institutions and officers who dealt with their cases, institutional and non-institutional support during the asylum procedure, their experiences with transfer, deportation, return order and detention (if applicable).

Out of 61 interviews, 47 (44 with Syrians, 1 with Afghani and 2 with Iraqi respondents) were conducted in Arabic and transcribed directly into English, whereas 14 interviews with Afghani respondents were conducted with a support of an interpreter who translated directly from Dari into English. All interviews were transcribed in English by the Uppsala research team.

Based on the sampling action plan, the RESPOND research team tried to reach out to the wider range of the diverse backgrounds of the targeted group with regard to their geographical location and distribution. However, this was challenging since it was easier in each location to reach only one category. RESPOND team reached the participants through the contacts and support of different NGOs, public agencies and the participants themselves. To give an example, we were able to reach seven Syrian participants in a town in north Sweden through a Health Care Centre and the Swedish Red Cross. After taking into consideration all ethical matters, the Health Care Centre arranged three interviews with Syrians of different religious, ethnic, age and marital status backgrounds. It needs to be mentioned here that the help of gate-keepers was very valuable for conducting the micro-level interviews.

The main concept used in the thematic analysis of the micro-level interviews was agency. For the sake of focusing on empirical material and not delving into theoretical deliberations on dualism of agency and structure, the concept of agency has been used independently, without referring to its relations with the structure (Giddens, 1984; Hay and Wincott, 1989). Agency is a concept that is generally understood as a capacity to act or cause change. The person who—or thing which—acts or causes change is termed an agent (Littlejohn and Foss, 2009). Understandings of agency may vary depending on the perspectives and objectives of the study. On the one hand, agency may be understood as the fundamental capacity of all humans to be self-reflective, initiate their own actions, and consequently influence their own lives. This understanding of agency is referred to as an objective capacity (Hitlin and Long, 2009), existential agency (Hitlin and Elder, 2006; Hitlin and Elder, 2007), agency as a capacity (Marshall, 2005), and the power of agency (Campbell, 2009).

On the other hand, agency can be viewed as an empirically measurable concept that individuals vary in (Eteläpelto et al. 2013; Hitlin and Elder, 2006; Hitlin and Elder, 2007; Hitlin

and Long, 2009; Marshall, 2005; Settersten and Gannon, 2005). Specifically, this perspective entails measuring the perceptions and beliefs about the ability to influence one's own life. Although the latter understanding could be an interesting concept to use in empirical studies (Kristiansen, 2014), for the aim of this report the concept of existential agency was chosen. What we particularly were looking for in the qualitative data analysis were signs and clear evidences of asylum seekers and refugees reflecting on their lives, taking independent decisions and taking actions or reactions. The results of the micro-level data analysis are presented according to six themes which were found central to the topic of asylum procedure and refugee protection in Sweden from the perspective of asylum seekers and refugees: choosing the country of asylum and the place for registering the application, asylum procedure and its assessment, experience with institutions and people involved in asylum procedure, vulnerable groups and a problem of meeting needs of their members, access to legal counselling and experience with actors involved in the protection of asylum seekers (together with non-institutional support).

Regarding the meso-level interviews, nine interviews were conducted in Sweden by the RESPOND researchers from Uppsala University. Six interviews were carried out in English and three in Swedish, all were transcribed in the original language and anonymized (if needed).

- In December 2018, two interviews were carried out with one civil servant from the Swedish Migration Agency (SWE_181213_Meso_No 1), and one from the Swedish Police (SWE_181214_Meso_No 2).
- In January 2019, one interview took place with an NGO activist (representing "Refugees Welcome") (SWE_190119_Meso_No 3).
- In February 2019, RESPOND research team conducted three meso interviews. The first one was with a representative of an NGO (SWE_190208_Meso_No 4) which provides legal counselling and integration related counselling and intervention to mainly Syrian and Afghani asylum seekers and refugees in Sweden. The representative of this NGO requested not to reveal any details that could reveal an affiliation. The second interview was on 15th February 2019 with a Swedish lawyer specialized in Migration and Refugee law (SWE_190215_Meso_No 5). The third interview was conducted on 19th February 2019 with the same civil servant from the Swedish Migration Agency regarding different complementary questions (SWE_190219_Meso_No 6).
- On 19th March 2019, an interview was conducted with an NGO (Flyktinggruppernas Riksråd, FARR) representative specialised in Migration and Refugee law (SWE_190319_Meso_No 7).
- On 24th April 2019, another interview was done with another civil servant from the Dublin department at the Swedish Migration Agency (SWE_190424_Meso_No 8).
- On 10th October 2019, (SWE_191001_Meso_No 9) an interview with a Swedish lawyer who works for the Swedish Red Cross and provides legal counselling was conducted².

In addition, on 8th December 2018 RESPOND Uppsala research team conducted a round table discussion where different experts and other involved actors and activists within the protection related matters joined the discussion (SWE_181208_Meso_No 10).

Individual and focus group meso-level interviews were based on the meso-level questionnaire. Similarly to the micro-level interviews, questions were formulated according to the different work packages of the RESPOND project. With respect to protection regime, respondents were asked to present their experiences and opinions on provisions in refugee protection in

² See the Appendix B for the Meso-level interviews sample.

Sweden (such as access to asylum and access to safe places), family reunification, Dublin regulations and their application, return policy and practice, procedure of migrants detention and responsibility sharing between various national, supranational and local actors. They could also express their views about the need of reform (if applicable) and their own ideas of reforming the protection system.

Furthermore, the report draws on data gathered at a focus group interview, which was arranged in November 2018 and where approximately 10 actors participated (including representatives of NGOs involved in political mobilization and practical work in relation to reception, legal advice, return issues and protection regime).

Micro- and meso-level data was collected and stored using digital audio recording devices with the permission of participants. Prior to the interview, the participants were given an information letter about the RESPOND project and a Letter of Consent to become familiar with it before they started answering the questions. In one case in which the respondent did not wish to be recorded, interview was undertaken in pairs of researchers to enable detailed note-taking. After recording, the data was transcribed and anonymized. All transcripts were coded through the NVivo qualitative software.

Each section of this report is based on variety of sources. The Section 3 is a background on the current national regime of protection in legislative, constitutional, judicial, ministerial and governmental levels. The Section 4 presents the key narratives regarding international protection during the contemporary history of Sweden with focus on the current government formation and policy before and after 2015. These two sections are based upon four types of material:

- (1) Public information provided by main actors (e.g. the Swedish Government and ministries, the Swedish Courts, the Swedish Migration Agency, different NGOs etc.) via web pages, information brochures and similar documents;
- (2) Speeches by the Swedish Prime Ministers;
- (3) Case law;
- (4) Research literature.

The aim of the Section 5 is to present the practices, experiences and perceptions of meso- and micro-level actors (asylum seekers and refugees) regarding the asylum procedure and refugee protection system in Sweden. As such, this section is based upon six types of material:

- (1) Public information provided by main actors (e.g. the Swedish Migration Agency; the Swedish Government, different NGOs etc.) via web pages, information brochures and similar documents;
- (2) Interviews with core actors/stake holders who have been involved in various aspects of border management;
- (3) Interviews with asylum seekers, refugees and beneficiaries of subsidiary protection;
- (4) Research literature;
- (5) Speeches and statements by the Minister of Justice and Migration, General Director of the Swedish Migration Agency;
- (6) Newspaper articles and media interviews and investigation.

What needs to be highlighted, in analysing the data we focused on issues which emerged to be the most serious shortcomings of the procedure.

3. Background on the Current National Regime of Protection in Sweden

3.1 The Legislative and Constitutional Framework of the Protection Regime in Sweden

Swedish Constitutional System

The Swedish Constitution consists of four fundamental laws that guide its laws and policies, which take precedent over all other laws. These four fundamental laws are: the Instrument of Government, the Act of Succession, the Freedom of the Press Act, and the Fundamental Law on Freedom of Expression (Sveriges Riksdag, 2015). *Firstly*, the Instrument of Government (1974) contains the basic principles of Sweden’s form of government including how it functions, the fundamental freedoms and rights of Swedish citizens, as well as how the Swedish Parliament (Riksdag) elections are to be held. *Secondly*, the Act of Succession (1979) outlines that it is possible for a woman to also inherit the Swedish throne, versus only allowing the throne to be passed down through the male blood line. It also outlines the rights and obligations of members of the ruling dynastic house on general. *Thirdly*, the Freedom of the Press Act (1949) outlines the right to disseminate printed information, with accountability, as well as the right for citizens to study and have access to public and official documents. *Fourthly* and finally, the Fundamental Law on Freedom of Expression (1991) is Sweden’s youngest law and stipulates the right for “free dissemination of information and prohibits censorship” and covers (new) media such as TV, radio, films, CD-ROMs (Sveriges Riksdag, 2015).

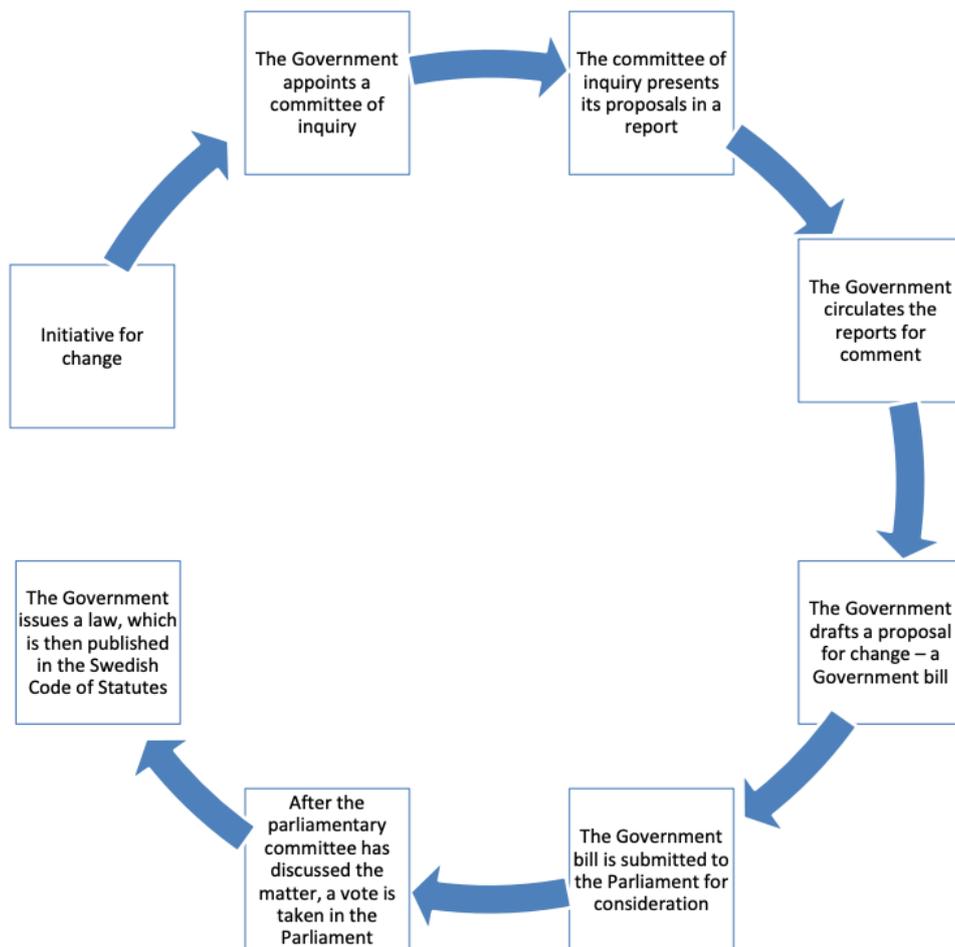
Although there is no mention of the international protection of asylum seekers in the four fundamental laws, Sweden is bound by its commitment to European laws and other International conventions. For example this is stipulated in paragraph seven, Chapter ten of the Instrument of Government where it outlines that Sweden will cooperate with other countries and international organisations, such as the EU and UN (“*Kungörelse (1974:152) om beslutad ny regeringsform Svensk författningssamling,*” 1974). Moreover, due to Sweden’s membership as a member state in the EU, EU law is covered by *acquis communautaire* meaning essentially “laws jointly enacted in the EU usually take precedence over members national laws” (Sveriges Riksdag, 2015). An example of one of these laws is the 1951 Geneva Convention and 1967 Protocol as outlined in the Qualitative Directive 2011/95/EU (“Directive 2011/95/EU of the European Parliament and of the Council,” 2011). Sweden has also adopted elements from the 1951 Geneva Convention and its 1967 protocol into its Alien Act (2005:716). The principles from UNCRC have been written into the Aliens Act via transformation (chapter 1, section 10) which influences procedures when children seek asylum. Additionally, the Migration Agency specifically outlines on its website that the criteria needed to be considered a refugee in Sweden are in accordance with the “UN Convention Relating to the Status of Refugees, Swedish legislation, and EU regulations” (SMA, 2017).

Swedish legislative process

From the moment that a legislative proposal is suggested, to when it is a new law that is promulgated by the Riksdag is in total a six step process. *Firstly*, there is the *initiative stage*, where laws are proposed to the Riksdag. Although most laws that are proposed to the Riksdag are brought forward by the government, it is possible for private citizens, special interest groups, or public authorities to bring forward legislative proposals (Government Offices of Sweden, 2015a). *Secondly*, there is the *inquiry stage*, when the government investigates and analyses the proposed legislative proposal. The inquiry can either be proposed to be investigated by an individual, officials from the ministry concerned, or it can be commissioned

by an inquiry. Inquiry bodies are not linked to the government, and their results are published publicly in the Swedish Government Official Reports series (Statens Offentliga Utredningar, SOU) (Government Offices of Sweden, 2015 A). **Thirdly**, there is the *referral process*, where report results are disseminated to relevant bodies and groups within the Riksdag as well as public, private, and civil society wherein their feedback and opinions are then shared with members of the Riksdag. If enough negative comments are received, then the government may try to find an alternative solution (Government Offices of Sweden, 2015 A). **Fourthly**, there is the *government bill stage* where after the referral bodies have shared their comments, the relevant ministry within the Riksdag drafts a new bill to be submitted for voting. **Fifthly**, there is the *parliamentary process* whereby the Riksdag has the full responsibility to discuss and then vote in, or vote down, the proposed legislation. **Sixthly** and finally, there is the *promulgation stage* which is when the law is implemented into society if it received a successful passage through the Riksdag (Government Offices of Sweden, 2015 A). This law making process is obviously also applicable to Migration and asylum related regulation as it will be explained in details how the legal changes have developed since 2015 in section five.

The process leading to a new law



Source: Ministry of Justice 2016

3.2 The Current Swedish Migration and Asylum Legislation

Since the so-called 2015 refugee crisis, Swedish legislation related to migration and the asylum process has experienced a major shift. However, before explaining its new developments since 2015 mainly in section five, one must first examine the main Swedish acts that deal with migration and asylum, how they have developed over the years since their inauguration, as well as the various external factors that have motivated their development.

Central acts relating to Swedish asylum and migration at the time this report is being written include:

1. The 2005 Aliens Act (2005:716).
2. The 2016 Act on Temporary Limitations to the Possibility of Being Granted a Residence Permit in Sweden (2016:752) which was extended by a government bill (2018/19:128) until 19 July 2021; the act throughout the text will be called “The Temporary Act”.
3. The Aliens Act Ordinance (2006:97).
4. The Act on Reception of Asylum Seekers and Others (LMA, 1994:137).
5. The 2016 Amendment to the Act (1994:137) on the Reception of Asylum Seekers and Others (2016:381).

Although the Aliens Act (2005:716) is the main legislation that regulates immigration in Sweden, Sweden does not have one consolidated immigration law (Shakra, Wirman, Szalanska, Cetrez, 2018, p. 24). The Aliens Act was the first immigration law enacted in Sweden and was firstly enacted in 1927. Its purpose included immigration control and protecting the domestic labour force by taking measures to prevent the Swedish labour market from receiving a more significant increase in foreign labour (Wikrén and Sandesjö, 2017, p.23). It still remains the main legislation for migration, however there have been developments and changes to the original law, such as taking out the radical language (Skodo, 2018). With the 2005 Aliens Act new instance and procedure system in the migration and citizenship related cases was introduced. As a result, the Aliens Appeals Board (Utlänningsnämnden) was replaced by the Migration Courts (Migrationsdomstolen) in Stockholm, Gothenburg, Malmö or Luleå and the Migration Court of Appeal (Migrationsöverdomstolen) (Wikrén and Sandesjö, 2017, p. 34).

Alongside various official Swedish laws, there are also the EU regulations that guide the international protection regime in Sweden. Therefore, the 2005 Aliens Act has been altered throughout the years in several occasions in order to incorporate European law. This has included the revised Asylum Procedures Directive, the Revised Reception Conditions directive, the revised Qualification Directive, the revised Dublin Regulation, as well as the revised EUODAC Regulation (European Commission, 2018). Therefore since “the Dublin Regulation decides which EU Member State the (asylum) application is to be examined in” Sweden has a legal obligation to fulfil the Dublin Regulation (SMA, 2017). The Dublin Regulation stipulates which EU member state is responsible to examine an asylum claim, and is based on various factors such as “... family considerations, to recent possession of visa or residence permit in a Member State, to whether the applicant has entered EU irregularly, or regularly (into the EU)” (European Commission, 2016). Therefore, based on the Dublin Regulation, if Sweden gets an asylum application from a person who has already been registered for example, in Italy, it becomes Italy’s responsibility to examine this persons claim to asylum, not Sweden.

The most recent addition to the laws relating to migration in Sweden is the Act (2016:752) on Temporary Limitations to the Possibility of Being Granted a Residence Permit in Sweden, also referred to as the Temporary Law. Due to the large influx of refugees and asylum seekers arriving to Sweden in 2015, there were legislative changes that were needed in order to

accommodate, and process, all those seeking asylum in Sweden as the Swedish government declared. On 24th November 2015 there were several measures proposed by the Swedish government to reduce the number of refugees who were seeking asylum in Sweden, as well as to introduce increased border controls (Sverigesradio, 2015). Moreover, the Temporary Act was active until, and on, 19 July 2019 and was meant to reduce the number of asylum seekers by only issuing temporary residence permits, alongside the above-mentioned provisions (“The Temporary Law,” 2016). Moreover, family reunification has been greatly restricted as well due to the Temporary Act, and the numerical outcomes of the Temporary Act can be seen in Tables 1-3 in section 4.6. On 20th July 2019 The Temporary Act was extended and new legal changes brought with this extension of the Temporary Act on humanitarian basis. These legal changes provided those beneficiaries of protection status with equal right for family reunification exactly as those with refugee status (Regeringskansliet, 2019 a).

There is also the Aliens Act Ordinance (2006:97) that essentially builds on the Aliens act by adding language that addresses the free movement of people in the EU, but also adds details on travel documents (such as passports, or when an alien does not have a passport), visa regulations, the right of residence for EEA citizens and those persons not from the EEA, and on residence permits

The Act on Reception of Asylum Seekers (1994:137) was updated in 1994, in order to accommodate the large influx of asylum seekers fleeing from the Yugoslav Wars in the early 90s. Moreover, the Act addresses which government entity should have the main responsibility for the reception of aliens, which should be the SMA, as well as outlining the responsibilities of the municipalities

The Aliens Act defines asylum using various criteria such as:

1. The fear of persecution or inhuman treatment.
2. If the person in question expresses the needs for protection for their life.
3. If a person’s freedom is in jeopardy because of persecution against their human rights in their home countries.

Fulfilment of these criteria is enough to apply for asylum in Sweden (Shakra, Wirman, Szalanska, Cetrez, 2018, p.30).

3.3 The Judicial Frame of the Protection Regime in Sweden

The Swedish judicial system does not create or amend laws and regulations, since that is the main task of the Swedish Parliament, and the Swedish judiciary does not belong to the common law traditions (Shakra, Wirman, Szalanska, Cetrez, 2018, p.31). However, it does play a central role in the implementation and interpretation of the laws and regulation through developing legal guidance and precedents. This role has been, and is still, very critical in the area of migration and asylum laws. This is especially clear after the ratification and extension of the Temporary Act until 19th July 2021, and introduction of the Act on Upper Secondary School Education (SFS 2017:352 and SFS 2018:756). These acts were passed through unusual fast processes in response to very acute circumstances during 2015, 2016 and 2017. As a result, these acts’ provisions contained considerable ambiguities and legal lacunas that would not have been fully understood and adequately implemented without the Swedish Migration Court of Appeal’s guidance and precedents, as will be explained in detail in chapter five of this report.

The role of the Migration Courts (*Migrationsdomstolen*) normally begins when an applicant to the SMA receives a rejection decision regarding their application concerning a residence permit “asylum claim”, work permit, or citizenship (Sweden Courts, 2019 a).

Since 2018 asylum applications can only be made at the SMA's centres in Stockholm, Gothenburg or Malmö as a consequence of the decreasing numbers of incoming refugees, as well as the subsequent shutdown of asylum facilities (Shakra, Wirman, Szalanska, Cetrez, 2018, p.31). Therefore, asylum seekers cannot seek asylum anywhere else other than these centres such as airports, ports or police stations as is the case in the other EU member states (SMA, 2019 g).

The appeal process of the SMA's rejected decisions regarding migration and asylum cases consists of two instances. The first appeal instance can be made at the Migration Courts at the County Administrative Courts (*Förvaltningsrätten*) in Stockholm, Gothenburg, Malmö or Luleå. However, the last and final appeal instance of the Migration Courts' decisions can only be made to the Migration Court of Appeal (*Migrationsöverdomstolen i Stockholm*) at the Supreme Administrative Courts in Stockholm (*Kammarrätten i Stockholm*) (Sweden Courts 2019 a). This court's decision is final and cannot be appealed again. However, the appeal in the final instance is not automatically a guaranteed right to all applicants, or the majority of the applications requires the so-called leave to appeal (*Prövningstillstånd*). This leave to appeal is a permission to review the case granted by the Migration Court of Appeal. There are two grounds for the Migration Court of Appeal to grant this initial permission or leave to appeals (Sweden Courts, 2017). In chapter 54, paragraph 10 of the Swedish code of judicial procedure (1998:605) it states that the first ground is if the case is of importance for the guidance of the application of the law. Or alternatively in more seldom cases, due to exceptional reasons such as grounds existing for the relief of substantive defects such as a grave procedural error has occurred, or that the result of the court of appeal is obviously due to gross oversight or to a gross mistake (Government Offices of Sweden, 1998).

The Migration Court of Appeal has provided several guidance and precedents during 2019 (Sweden Courts, 2019 b) where some of them can be summarised as follows:

The Migration Court of Appeal has emphasised the importance of examining the individual circumstances, as well as current and relevant country of origin information concerning the return questions of a rejected asylum application. Within the framework of the assessment of the asylum seeker's protection needs, the question of whether there is a safe route to the place of residence or other safe place in the home country can be raised (Reference nr UM 12342-18).

In another case, the Migration Court of Appeal ruled that if it deemed that there was a reasonable reason to believe that a foreigner in Sweden, whose deportation was to take place, would be in danger of being punished with death or subjected to corporal punishment such as torture or another form of inhuman or degrading treatment and punishment, then the foreigner in question is not required to show a valid excuse for a new trial to be granted (Reference nr UM 1219-18).

According to the statistics of the Swedish Migration Court of Appeal in Stockholm, during 2017 around 17,700 migration cases were appealed to the Migration Court of Appeal in Stockholm, and 17,400 cases were examined and determined if the so-called leave to appeal (*Prövningstillstånd*) to be given or not (Sweden Courts, 2018).

3.4 The National Management of Protection Regime in Sweden

The Government of Sweden is made up of 12 departments of ministries: The Prime Minister's Office, Ministry of Culture, Defence, Education and Research, Employment, Enterprise and Innovation, Environment, Finance, Foreign Affairs, Health and Social Affairs, Infrastructure, and Justice. In total there are 22 ministers within all these various ministries, and Morgan Johansson, the current Minister of Justice and Migration under the Ministry of Justice, handles migration and asylum issues (The Government of Sweden, n,d).

Within Sweden, the Ministry of Justice in the Swedish government is responsible for managing judicial, legislative, administrative and financial aspects of migration and asylum. The official approach of the ministry of Justice is to “ensure a long-term sustainable migration policy that safeguards the right of asylum and... facilitates mobility across borders, promotes needs-based labour migration, harness and takes into account the effects of migration on development, and deepens European and international cooperation” (Government Offices of Sweden, 2019). Moreover, within the Ministry of Justice, there are 19 divisions wherein four of them are dealing with migration and asylum policies in the national, international and European levels. They are:

1. Division for Migration Law
2. Division for Migration and Asylum Policy
3. Division for Management of Migration Affairs
4. Division for EU Affairs

The Division for Migration Law is responsible for legislative matters relating to migration law, specifically the legal implementation of migration law in Sweden. The Division for Migration and Asylum Policy is responsible for international cooperation, policy concerns, as well as Swedish citizenship, (the Division for Migration Law also has responsibility for Swedish citizenship). The Division for Management of Migration Affairs is in charge of the financial side of migration in Sweden, as well as the reception of applications for asylum. Finally, the Division for EU Affairs essentially works on Sweden's migration and asylum policy, but from an EU level and coordinates internal preparations so that Sweden respects EU laws and responsibilities via *acquis communautaire* (Government Offices of Sweden, 2020).

3.5 Institutional Framework and Actors within International Protection in Sweden

The SMA (*Migrationsverket*) describes itself as the link that connects various actors in the field of migration asylum policy. In fact, it is the central administrative authority regarding migration in Sweden (SMA, 2018 b). However, there are a number of other actors involved, as presented by the SMA. These agencies and authorities are cooperating with the SMA in the migration and asylum related matters inside and outside Sweden (SMA, 2018 b) as follows:

1. The Swedish embassies and consulates abroad receive applications for visas, residence permit and job permits;
2. The Swedish police is responsible for border control and deportation;
3. The Migration Court of Appeal 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 residence permit, and engaging them with an 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 in their municipality. The municipal Social Services are involved when it comes to the unaccompanied minors;
6. The county council (Landstinget) is in charge when it comes to the asylum seekers' health care, NGOs and aid agencies, which can support asylum seekers in this manner;
7. The Children's Ombudsman, the county administrative boards, the National Board of Social Affairs, Sweden's municipalities, and the county councils are together cooperating for the reception of asylum seekers who are unaccompanied minors.

While these actors coordinate with the SMA, they are also independent from the Migration Agency or the government and make their own decisions – unlike in the rest of Europe – collectively (Aida 2016, p.13). In the same way, the SMA and other public authorities such as the courts work in their daily activities and individual cases independently from the influence of the government and Parliament. This principle is called the minstrel rule prohibition. However, the public authorities and agencies still follow the government's guidance and steering through what is the government letter (*regeringsbrev*) and apply the laws passed and ratified by the parliament (Sveriges Riksdag, 2017).

Newly arrived individuals covered by the Resettlement Act (*Lag om etableringsinsatser för vissa nyanlända invandrare, 2010:197*) and they are usually distributed by the SMA to different municipalities in Sweden, which will further decide over the financial compensation or benefits for the persons in question. According to the AMIF report just since 2013, coordination of the different authorities has been formalised. Until then, no clear coordination existed, and asylum seekers had to contact on average 10 authorities, and had about 40 conversations with different officials during the asylum procedure (Shakra, Wirman, Szalanska, Cetrez, 2018, p. 23).

Although the Migration Agency is the primary official authority in Sweden to address asylum seekers and refugees, it is clear that there are still multiple official authorities and agencies that have a role in the international protection regime in Sweden. Other official authorities and agencies, which complete the Migration Agency's role, are essential to keep the process of migration and integration functioning properly and efficiently. These authorities, alongside the above-mentioned agencies, include: The Swedish Public Employment Service (*Arbetsförmedlingen*), the Swedish National Insurance (Försäkringskassan), the Swedish Agency for Youth and Civil Society (MUCF), the police, the tax authority (*Skatteverket*), the Swedish National Agency for Education (*Skolverket*), and the Swedish National Board of Institutional Care (SIS) (SMA, 2014). Their work includes, but is not limited to receiving applications, supervising border control, managing those persons who have refused to leave Sweden, appealing decisions made by the SMA, ensuring that municipalities are equipped to welcome refugees and asylum seekers, managing healthcare, as well as assisting with the reception of unaccompanied minors (SMA, 2019 g).

It should also be mentioned that there are also various NGOs representing the civil society that are involved in refugee protection within Sweden. For instance there is the Swedish Network of Refugee Support Groups (FARR) that works for individuals and groups in order to strengthen the right to asylum in Sweden (FARR, 2006). There is the Swedish Red Cross (Röda Korset) which offers support and counselling with numerous activities during the asylum seeking and refugee process. There is the Swedish Church (Svenska kyrkan) which focuses mainly on newly arrived refugees with support in daily life (such as language cafés to assist with language learning and culture sharing), as well as psychosocial support (Svenska Kyrkan, 2019). Finally there is the Swedish Refugee Law Center (Asylrättscentrum, previously called in Swedish "*Rådgivningsbyrå för asylsökande och flyktingar*") which functions as a type of advisory office for asylum seekers and refugees and offers free legal support to those persons

in need of it, and also works to make the migration process “law-safe”, as well as attempts to analyse and find where there are law issues in the Swedish system (Asylrättscentrum, n.d.). Although each of the above mentioned NGOs in Sweden do not necessarily work together, they all work independently of the Swedish state to offer support in various ways to asylum seekers and refugees.

In relation to circumstances under which persons make their application for asylum, a few factors need to be taken into account. First, an asylum application must be made in Sweden, and cannot be made in a Swedish Embassy or Consulate abroad. If the person wishing to make an asylum application is unable to come to Sweden, then they can turn to UNHCR. UNHCR is able to help persons who are unable to make a claim for asylum by resettling them in a country, and Sweden is a part of the resettlement programme (SMA, 2019 e). The SMA works together with several different Swedish and international agencies to coordinate resettlement in Sweden. They include UNHCR, Swedish embassies, the International Organization for Migration (IOM), as well as Sweden’s municipalities. UNHCR forwards the application to the SMA where it is considered. If the application is accepted, then the IOM organises the refugees travel to Sweden (SMA, 2019e).

As to how asylum seekers are to apply for asylum in Sweden it states on the Migration Agency’s website that “if you are seeking protection in Sweden, you must submit your application for asylum when you enter Sweden to one of the Migration Agency’s application units” (SMA, 2017).

3.6 Brief Statistics Regarding National and International Protection

Since the first publication released by the RESPOND team for Sweden, there have been updated reports from 2018 on how migration trends have progressed. For instance, when one examines how the number of granted first time residence permit applications have changed since 2017, one observes that the number of granted family reunification and asylum applications have decreased. On the other hand, refugee quota, work, and study categories have seen an increase of approved applications. Although three of the five categories saw a rise in the number of first time granted residence permits, the total number of these permits decreased from 2017.

Table 1: First-time Residence Permits Granted in Sweden

Category	Number in 2018	Number from Jan-Sept 2019	September 2019
Family reunification	44,861	22,961	2,678
Asylum	24,935	13,212	1,188
Refugee Quota	5,219	Sweden plans to receive 5000 during 2019	
Work	41,048	33,800	2,636
Study	14,105	12,382	811
Total	130,168		

Source: Compilation from SMA (2019a) and SMA (2019e)

Similar to the trends in the above table, the total number of applications that Sweden received in 2018 have decreased since 2017 and it seems that the number in 2019 is going even lower if the trend tends to continue in the same way as in the month of September. In fact, the numbers are even lower than before the so called 2015 refugee crisis.

Table 2: Applications for Asylum

Group	Number in 2018	Number from Jan-Sept 2019	September 2019
Women (including children)	8,573	6,484	819
Men (including children)	12,929	9,678	1,196
Children	6,329	4,691	626
of which are unaccompanied minors	944	677	121
Total	21,502	16,162	2,015

Source: Compilation from SMA (2018a) and SMA (2019b)

When one examines the country of origin of those who are asylum seekers in Sweden in 2018 some countries have changed, but for the most part the top ten countries of origin have not changed. For instance, Syria is still the country with the most asylum seekers in Sweden in 2018, as was the case from 2011-2017.

Table 3: Top 10 Countries of Origin of Asylum Seekers in Sweden

Country	Number of Applications 2018	Number from Jan-Sept 2019
Syria	2,709	1,804
Iraq	1,369	485
Iran	1,257	830
Georgia	1,156	762
Eritrea	873	520
Afghanistan	805	646
Stateless	765	581
Uzbekistan	740	770
Somalia	735	577
Albania	616	419

Source: Compilation SMA (2018b) and SMA (2019a)

4. Key Narratives Regarding International Protection in Sweden

4.1 Legal and Political Developments before and after 2015 in relation to the Swedish Protection System

From the electoral period from 2014-2018 the far-right party, the Swedish Democrats (Sverigedemokraterna, SD) held 49 seats, or 12% of the overall voting power in the Riksdag (Deloy, 2014, p. 2). Specifically in the election of 2014, the Sweden Democrats won 29 more seats, a success that was beyond the party's expectation, but also a success that asserted "themselves at the country's third most important political force", and they now proudly define themselves as the party supporting stricter immigration policies, such as reducing immigration by 90%, before the 2015 refugee crisis (Deloy, 2014, pp. 2–3). Although the Swedish Democrats were in favour of stricter immigration policies before the 2015 refugee crisis, the general trend within the Swedish political parties before 2015 was a general consensus to favour a generous immigration policy (Deloy, 2014, p. 3). However, in a study done by Malmö University it was found that as a result of the 2015 refugee crisis "both the political debate in parliament and the official migration policy positions of most parties have changed drastically" (Emilsson, 2018, p. 17). This can be seen in both the official party manifestos released after 2015 when compared to the pre-2015 refugee crisis, but also in the legal implications.

Compared to the neighbouring EU countries, before the refugee crisis in 2015, Sweden was considered an outlier to its neighbours with a "relatively open migration policy and integration policy based on equal rights" and went above and beyond the EU minimum standards (Emilsson, 2018, pp. 2 & 8). For example, just before the 2015 refugee crisis, the Swedish family-migration policies were considerably more liberal than the majority of European countries. In the same study by Malmö University, it was found that due to the 2016 Temporary Act (which is included in a policy package in order to reduce the number of asylum seekers that was announced 24 November 2015) "Swedish asylum and family-migration laws [are now] to the minimum level under EU law and international conventions" (Emilsson, 2018, p. 11).

Although the overall stance of Swedish political parties changing their attitudes towards migration as a result of the 2015 refugee crisis is true, it is also not so simple when you examine how specifically each party has changed their stance towards asylum seekers and migrants because current measures that have been adopted by the Riksdag are "only temporary and it is unclear how the migration and integration policies will develop" once the 2016 Temporary Act expires 19 July 2019 (Emilsson, 2018, p. 11). The Temporary Act was adopted by the Riksdag in 2016 as a reaction to the so called 2015 refugee crisis as a mechanism to try and reduce the number of asylum seekers coming to Sweden thereby lowering Swedish asylum policies to match EU minimum standards, as well as introducing external border controls (Emilsson, 2018, p. 2).

In the Riksdag there are eight political parties, in order from the party with the most seats to least: the Social Democratic Party (100), the Moderate Party (70), the Sweden Democrats (62), the Centre Party (31), the Left Party (28), the Christian Democrats (22), the Liberal Party (20) and the Green Party (16) (Sveriges Riksdag, 2018). When we examine more closely how the political parties reacted specifically to the Temporary Act, it is clear that their stance towards migration is complex.

Within the Social Democratic Party there was a common stance towards immigration that combined openness with equal rights for those seeking asylum, and there was "no signs of a repositioning on asylum policy before the 2015 refugee crisis" (Emilsson, 2018, p. 12). However, after the 2015 refugee crisis, the Social Democrats were the clear driver of policies

that were meant to reduce the inflow immigrants into Sweden, and although the policies are only temporary, it is unclear whether or not the Social Democratic Party wants to make the legislation permanent or not (Emilsson, 2018, p. 13). Next is the Centre-Right Alliance that includes the Moderate Party, the Liberal Party, the Centre Party, and the Christian Democrats. This alliance had a 2014 manifesto known as We Build Sweden, which reflected a very open migration policy that had “no suggestions for major policy changes” (Emilsson, 2018, p. 13). However, upon examination of their manifestos after the 2015 refugee crisis “[all] four Alliance parties have substantially changed their position on asylum and family-migration policies but not to the same extent and not always in the same direction” (Emilsson, 2018, p. 14). In their 2013 party program the Green Party expressed that they were proud to be the most “open” regarding their stance on Swedish migration policy, and want to work to make Sweden more open to in the future (Emilsson, 2018, p.15). After 2015, they still have an open policy and believe that Sweden “should take a large responsibility for refugees and be an international role model” (Emilsson, 2018, p.16). Similar to the Green Party, the Left Party has also been advocating for a more open migration policy in both Sweden and the EU equally before and after the 2015 refugee crisis (Emilsson, 2018, p.16). Finally, the Sweden Democrats before and after the 2015 refugee crisis have advocated for a more restrictive migrant policy so that migrants do not “pose a threat to national [Swedish] identity” (Emilsson, 2018, p.16).

Since Sweden is a member of the European Union (EU), they have had to adopt EU level legislation as part of their acquisition into the EU. Specifically relating to EU laws, there is Article 189 in the Rome Accord which stipulates that “a regulation shall have general application. It shall be binding in its entirety and directly applicable in all Member States” (“Treaty of Rome,” 1957). Therefore, the directives that the EU has created and implemented that seek to establish norms of equal treatment of asylum seekers throughout all member states must therefore also be implemented in Sweden. These laws directives include: 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).

4.2 The 2018 Government Formation Crisis and Migration

Sweden’s political parties group themselves in party blocks which vote or govern together. The two main blocks used to be stable, with the red-green one (before the rise of the greens the Social Democrats alone but often with support from the left party) and the conservative Alliance including the Moderates (which historically used to be Sweden’s second biggest party since 1980s), Liberals, Centre Party and Christian Democrats. Even though they are often considered to be close to the red-green block, the Left party is not a member of it and does occasionally deny its support for the red-green block. Not part of a block either are the far-right Sweden Democrats (SD). In Sweden it was not uncommon in the past to build a minority government, which is easier to achieve as the candidate for the position of a Prime Minister does not need a majority of votes in the parliament to be elected, but rather must not have a majority against him. In the seven decades since WWII, this resulted in quick and uncomplicated government formations. Yet since 2010 the Sweden Democrats (SD), a far-right and anti-migration party, are represented in the parliament and in the 2018 parliamentary elections (*Riksdagsvalet*), they reached 17,5%. The Sweden Democrats party eventually turned on the right block with this election, opposing the conservative Alliance and the left red-green block.

The consequences are the longest period of government building in Sweden’s modern history as well as a migration discourse that, similar to other European countries, has shifted to the right with the rise of the far- right popular party Sweden Democrats (Emilsson, 2018, p18). Traditionally Swedish politics were following a much more welcoming and open migration policy comparing to many other European countries (Emilsson, 2018, p. 2).

When in January 2019 two parties, originally being part of the conservative Alliance, the Centre Party and the Liberals, decided to support the former social democratic prime-minister Stefan Löfven, the crisis of building a government could finally come to an end. Besides these two parties, the Centre Party and the Liberals, the Left Party was also of central relevance: While often considered so, they are not part of the red-green block, and threatened to topple Löfven over dispute in the field of migration policy (Lindeberg and Billner, 2019).

The fact that it took the parties in the Swedish parliament about four months to build a government is highly related to migration policy. With the far-right SD reaching their best result in the history of the party (17.5%), they emerged as a new third block besides the red-green block and the conservative Alliance under lead of the Moderates. This rise can at least partly be explained by the party's migration policy that "capitalised on widespread insecurity in Sweden about immigration" (BBC, 2018). This new constellation left little room to move for the two other blocks, which rejected to include SD in government building talks. However, this was not the case for the Moderates and Christian Democrats, who were becoming more open towards the Sweden Democrats. However, the Sweden Democrats' success was not only (partly) a result of the political developments since the start of the so-called refugee crisis. The positions of the established parties have changed significantly over the past four years since 2015.

The red-green coalition, in office since 2014, started as a defender of the very immigration friendly "Swedish Exceptionalism", with the Greens as the most open party, but even they had to change their position during the "crisis" (Emilsson, 2018, p. 15). The introduction of restrictions during 2015, e.g. the introduction of border controls or only temporary protection, was mostly driven by the Social Democrats. However, they were accepted by the Greens as a smaller coalition partner under the tears of deputy prime-minister Åsa Romson (The Guardian, 2015 a). Since then, the approval rates of the Green Party felt dramatically, due to their changed migration policy, even though they still demand a large responsibility of Sweden for refugees.³ Unlike the conservative block, the Social Democrats are since then in favour of decreasing the numbers of incoming asylum seekers instead of enforcing a maximum number (Emilsson, 2018, p. 13). Further, they emphasise the need to come to a more European solution (as shown above). As Emilsson points out, the positions and especially framing of the situation have significantly changed compared to the times prior to the "crisis" (Emilsson, 2018, p. 13).

The conservative Alliance published a manifesto in 2014 that showed a very open stance towards migration and, just like the Social Democrats, demanded a higher level of European cooperation (Emilsson, 2018, p.13). Back in 2013, a demand by then-integration minister Tobias Billström for capping numbers of immigrants was received mostly negatively among conservatives as well (The local, 2018). Rather, the perception of Sweden to be more generous than other countries, and safeguard the right to seek asylum was reconfirmed. Within the block, the Centre Party and Liberal Party stood for the most migration-friendly policies (Emilsson, 2018, p.14). These positions, however, changed significantly after 2015, with the Moderates pushing for the strictest demands (for example, they demanded to make the temporary restrictions permanent, guarantee fewer hours of legal advice and less access to social welfare, as well as stricter expelling of criminals with migrant background). The Christian Democrats changed their position as well by stating that the Swedish reception cannot be significantly more generous than that of other European countries, and they were in favour of permanent changes such as setting up certain application zones for asylum seekers, but demanded better protection for children with humanitarian needs (Emilsson, 2018, p. 14). The Liberals also were in favour of a more "EU-mainstream" policy but were

³ Parliament protocol 2016/17:41, Anf. 118

concerned about lower standards for the protection of children. The Centre Party's position is "not easy to pinpoint" as it is both critical of a too open stance but still in favour of an open asylum policy (Emilsson, 2018, p. 15). The party wants to "[protect] people's right to seek protection, but not all benefits" (Emilsson, 2018, pp. 14 & 15).

Similar to the position of the Green Party, the Left Party criticised the "Fortress"-approach of the EU and stood for further liberalisations. This approach has not much changed since the "refugee crisis". Only the Sweden Democrats (SD) have been in fundamental opposition to the pre-"crisis" migration policy of Sweden. In the 2018 election the Alliance took, as already mentioned, a much more critical stance, shifting to the right, e.g. by presenting a proposal that now is very similar to Billström's suggestion from 2013 (Dutceac Segesten, 2018). Further, the Moderates presented themselves open to talks about migration policy with SD, a stance that was generally rejected by the Social Democrats (The local, 2018). The four-month-long limbo Sweden found itself in after the election, could just be ended when the Liberals and Centre party were convinced to vote against their block and for the Social Democrat, Löfven (Henley, 2019). As one of the major topics in the Swedish election, the respective positions on migration and protection played a crucial role, especially in dealing with the far-right Sweden Democrats. In general, it can be stated that most parties shifted their policies to the right, but only the Moderates and Christian Democrats are willing to cooperate with Sweden Democrats. In the view of Stefan Löfven, this seems to be a new form of Swedish Exceptionalism: "More and more governments are becoming reliant on parties with an anti-democratic agenda. But in Sweden we stand up for democracy, for equality. Sweden has chosen a different path" (Henley, 2019).

However, this statement is no longer as firm as it may first have seemed. There is a clear divide within the Social Democratic party on the issue of migration (SVT, 2019). Several Social democrats want to limit immigration and the right to seek asylum. This ideological divide has created an intensive debate within the governing party about what policy should be pursued when it comes to immigration. The leadership does not want to go back to the generous policy pre-2015, and in several corners of the party there are demands being put forward to continue to limit and restrict that possibilities to migrate to Sweden. One of the suggestions are linked to limit migration in relation to the unemployment rate of persons born outside Sweden and the amount of money being paid out in benefits (SVT, 2019).

Also, one of the more famous ministers, Ardalan Shekarabi have voiced similar concerns.

The great segregation, that now have reached the rural areas of Sweden, is a real and serious threat to the cohesion, equality and trust in our country. A threat to everything that we associate with the welfare state that is Sweden (Dagens Nyheter, 2019: pages).⁴

To counteract this phenomenon he has listed suggestions, and as the first suggestion it reads that Sweden should not have large immigration, the reception should instead be kept on low levels. Ardalan Shekarabi is as not, as already mentioned, the first within the Social Democratic party to ask for a limitation of migration, but he is so far, as of October 2019 the highest figure within the party to voice such an opinion (Dagens Nyheter, 2019). It is still not clear what the end result will be on the matter.

⁴ The author's translation

4.3 The Current Government Narratives for the Protection Regime in Sweden

The Swedish Prime Minister Stefan Löfven usually presents the government declaration (*regeringsförklaring*) every year in front of the Swedish Parliament. In this declaration, the Prime Minister highlights the headlines and landscapes of the government policy concerning the central aspects of the state governance, including the migration and asylum policy. The Swedish Prime Minister delivered the recent declaration in September 2019, and this was a very near date to the previous government declaration in January 2019. Delivering a late declaration occurs usually during the government election year when the question about who is the next Prime Minister is still not determined (Sveriges Riksdag, 2018 b). The Prime Minister in the two declarations emphasised on similar migration and asylum policies. He affirmed in both that the subsidiary protection beneficiaries and refugees would have the same right for family reunification, as well as the importance of the shared responsibility, solidarity, and common policy among the EU member states concerning refugees. He also repeatedly declared the significance of safeguarding the right to seek asylum, and stated that the Swedish migration policy shall be safeguarded, efficient and humanitarian (Regeringen, 2019 b).

In the latest declaration, Stefan Löfven mentions the so-called “safe country of origin” and that it will be possible for the SMA to handle quickly the cases of asylum seekers from those countries who have not been deemed to have grounds for asylum. In addition, he states that an independent review of the method for medical age assessments shall be conducted (Regeringen, 2019 b).

The Swedish Ministry of Justice, in its roadmap, provides more details concerning the Swedish government’s migration and asylum policy published in June 2019. According to this roadmap, central aspects and objectives of migration and asylum policy include a sustainable migration policy that:

1. Safeguards the right of asylum but within the framework of managed immigration;
2. Facilitates mobility cross borders;
3. Promotes a demand-driven labour-migration;
4. Finally, deepens European and international cooperation (Government Offices of Sweden, 2019).

The Swedish government has been seeking to establish a common asylum system in the EU that distributes the reception of refugees fairly and proportionately. Therefore, the Swedish government considers that asylum seekers must receive a legally secure reception with short waiting times. In addition, those who have reasons for protection should quickly become a part of their new society, and those who lack such reasons should quickly return to their home country (Regeringen, 2019 a, p. 17). The Swedish government perceives improved conditions for the return of asylum seekers whose asylum claims have been rejected and the decision in their cases has become final and non-appealable, as a part of a sustainable asylum migration policy. Therefore, the government has taken several measures to speed up this return, and improve its conditions. For example, the Swedish Police Authority has become able to check workplaces, and make sure that employees do not recruit those who has no right to stay or work in Sweden. In addition, the Swedish government has increased the number of detention centres (Government Offices of Sweden, 2019). In the Prime Minister’s speeches, similar to other European leading politicians, the narrative of a return to “normality” is dominant. As cited in the following speeches dating from 2017 and later, the number of incoming refugees has dropped significantly, and reception institutions have been closing down. Therefore, the question that now arises is how this “normality” or “stability” actually looks like, or when it will be reached. As it is not reached yet, in the Prime Minister’s opinion, internal border controls have to be maintained:

And as long as we do not have an efficient system in the EU, as long as order and security cannot be guaranteed, then it is likely that we will not see the end of border controls in Europe. This will have some ramifications for free movement in the EU for a while, but for the time being, this seems to be a necessary evil. The signal to other countries must be clear. Everyone must take their share of what is our joint responsibility (Löfven, 2017).

This lack of internal solidarity is also used by Löfven as justification of the criticised lowering of protection standards, e.g. by the measures presented in the previous quotation:

Sweden cannot have an asylum policy that differs substantially from the rest of the EU, and we must put in place [at the EU level] a new asylum system in which all Member States take their share of responsibility (Löfven, 2017).

In his approach towards migration, Löfven outlines how he perceives the long-term solution of the “refugee crisis”:

The EU has an important role to play internationally. Because the solution is not that everyone should come to Europe. We are working together with the UN on poverty reduction, conflict resolution, and development in the refugees’ home countries. We are combating human smugglers, whose business concept is profiting from people’s desperation. European vessels now patrol the Mediterranean and rescue people in distress. We are making tremendous contributions here. And they are having an impact. Fewer people are now making their way to Europe along dangerous routes, which is an achievement (Löfven, 2017).

Dominant narratives in Sweden’s current ruling coalition include the protection of Europe’s external borders and tackling root causes, meaning an urgent need of a higher EU internal solidarity in shouldering the “crisis”, and a more coherent internal asylum system (a demand that was in fact formulated by the Social Democrats already years before the crisis) (European Parliament, 2012). Moreover, they also highlight Sweden’s outstanding role in the protection of refugees since 2015. All these points are reflected in Löfven’s 2015 proposal to reform the EU’s refugee policy. In this proposal, Löfven presents the following ten standpoints (Government Offices of Sweden 2015b):

1. The EU must establish a permanent and obligatory redistribution mechanism in the event of disasters;
2. The EU must continue to prioritise the saving of lives;
3. All EU Member States must take their responsibility to maintain the EU’s external border and live up to the asylum rules;
4. The EU’s asylum and border agencies must be strengthened;
5. The EU must continue to combat human smugglers;
6. The EU must ensure the efficient and humane return of refugees and agree on a returnee programme;
7. The EU must quickly agree on a system of safe countries of origin;
8. The EU must drastically increase the number of quota refugees to approximately 100,000;
9. The European Commission must propose more legal routes into the EU;
10. The EU needs a more active foreign and aid policy to help people on the ground.

According to the Prime Minister and his government, the most important instrument to stop refugee disasters is development and conflict resolution (Regeringen, 2019a, p. 17).

5. Asylum Procedure and Protection Regime in Sweden: Practices, Experiences and Perceptions

5.1 Meso and Macro analysis⁵

5.1.1 The 2016 Temporary Act Between Legal and Legislative Reality and Political Signal

As this report has already explained, in Sweden laws and their alterations should go through the same law making process and legislative channel mentioned in the third section. The Temporary Act (2016:752) in 2016, whose aim was to limit the possibility of being granted a residence permit in Sweden, was not an exception. However, the political circumstances surrounding the process of drafting this act were extremely exceptional. In various senses, this led to an unusually rapid legislative process and produced an act that suffers from different legal lacunas (Hagsgård, 2016). This fact is clear when one looks on the one hand at the amount of criticisms and the anticipations of negative legal, social and humanitarian outcomes expressed and received during the referral process by the different actors involved. On the other hand the exceptionality of this political era was clear from the Swedish government's reaction as well as the Swedish parliament's response to those criticisms and negative potential effects.

According to the government bill (2015/16:174) several referral bodies, including The Child Ombudsman, Uppsala University, Sweden's Bar Association, Save the Children, the Swedish Red Cross, the Swedish Academics Central Organization (SACO), the Confederation of Professional Employees (TCO) and UNHCR rejected the proposal in its entirety. The SMA approved the proposal on condition that the noted deficiencies in the proposal would be addressed. However, many actors in the referral process, including Amnesty Sweden and Swedish Red Cross, even questioned the need for the act and believed it had not been sufficiently analysed (Government bill 2015/16:174, p. 22).

During a meso interview conducted by the RESPOND research team on 19 February 2019 a civil servant at the SMA described the Swedish government's reaction and position towards the deficiencies in the proposed Temporary Act during the draft process as follows:

If you read the bill (Temporary Act proposal), it's really strange. It looks like a new type of bill that I have never seen before. On the one hand you have this law (Temporary Act) where all people are commenting on it, telling what crap it is. On the other hand, you have the Government answering "We know its crap, but we are going to enact it anyway. Then we (the SMA) say this will be a big problem, it's not good anyway. Then the government answer is Yes, we know the problems but a lot of people are coming and we have to do it anyway (SWE_190219_Meso_No 6).

The actors involved in the referral process concerning the drafting of the Temporary Act in 2016 were also from the Swedish judicial bodies such as the administrative courts in Stockholm, Gothenburg and Malmö, from the governmental agencies and authorities such as the Swedish Public Employment Services and the Swedish Association of Local authorities and Regions (Regeringskansliet, 2016).

⁵ All the quotations and summaries in the meso and macro analysis sub-section in chapter five are translated by the main author from Swedish to English.

Some of the general remarks and observations concerning the government bill for this Temporary Act, which were commonly shared and submitted by some of the above-mentioned actors before March 2016, can be summarised as follows:

The Migration Court in Stockholm wondered how this Temporary Act's main goal in limiting the possibility for family reunification can be consistent with the government's initiative and intention to incorporate the UNCRC as Swedish law in 2020 (Löfahl and Antemar, 2016). This observation was also shared and elaborated by the SMA's response and comments in March 2016 during the referral process. One of the SMA's main observations was related to the rationality behind lifting out the possibility for the third type of protection ground "a person otherwise in need of protection" (övrigt skyddsbehövande) from the Aliens Act. According to the SMA's comments, the beneficiaries of this third type of protection ground constitute a marginal portion of those who used to be granted a residence permit in Sweden. Therefore, it would not preclude achieving the government's eventual goal to reduce the number of the asylum seekers coming to Sweden (SMA, 2016).

The SMA used the same argument in its same comments to object the government's justification to limit the scope of the fourth type of protection ground in the Aliens Act. This protection ground is based on distressing circumstances (Ömmande omständigheter) or on humanitarian grounds derived from Sweden's international treaty obligations. According to the SMA, the proposal to temporarily suspend or limit the scope of the third and fourth types of protection status is not a proportionate solution in relation to the main and long-term goals of reducing the number of asylum seekers coming to Sweden. As a result the SMA rejected the intended changes that would withdraw these provisions in the new Temporary Act which grant protection to the third and fourth types of protection status (SMA, 2016).

The SMA's statistics show that a third of the beneficiaries of these two categories during 2015, before the application of the Temporary Act, are children (471 children with their families and 565 unaccompanied children without caregivers) (SMA, 2016).

The second main characteristic of this Act is related to its short duration or temporal application only three years until July 2019. This characteristic can be argued to be inconsistent with the nature of legal certainty principle and efficient legal procedure to produce good precedents and guidance from the Migration Court of Appeal, which usually takes a long time.

The Migration Court of Appeal in its comments concerning the bill for this Temporary Act indicated that this short duration could jeopardize the required stability and safeguards for well-scrutinized guidance in the legal application of any regulation by the first instance courts and appeal courts. Without the Migration Court of Appeal's guidance and precedents different assessments, judgments and interpretations in the same case or similar cases can be made. This can eventually jeopardise the administration of justice and the stability of the judicial system. In addition, some provisions in this Bill were perceived as unclear opening up the possibility of different interpretations even among the four Migration Courts in Sweden (Linder and Tingbäck, 2016, p. 2).

The Migration Court of Appeal states in its comments to the bill on the Temporary Act as follows:

Initially, it can be stated that the Aliens Act (2005: 716) is already very difficult to understand because of many extensive structural and technical adjustments have been made since the Act came into force almost ten years ago.

The Migration Court of Appeal would also like to emphasize that a Temporary Act that for a period cancels certain provisions of the Aliens Act may lead to strange and, in some cases, unfortunate transitional effects (Linder and Tingbäck, 2016, p.1).

The SMA's civil servant described during the same meso interview more than two years experience of applying this Temporary Act. He confirmed the fact mentioned by the Migration Court of Appeal. He explained how the absence of the Migration Court of Appeal's guidance and precedents have contributed along with other factors to create inconsistency in the different courts' decisions since 2016.

It takes a couple of years before the Migration Court can decide on different questions in the new Temporary Act and then this leads to getting different Court decisions from different places in Sweden and different problems with that (SWE_190219_Meso_No 6).

The main goal as stated in the government bill (2015/16:174), was to introduce restrictive measures and bring the Swedish law into line with the minimum standards under EU law and international conventions. This was eventually to reduce the number of people coming to seek asylum in Sweden through limiting the possibility of obtaining a permanent residence permit and family reunification for certain categories. The Migration Court of Stockholm found that it was not clear what the measurement for or which comparison can be used to determine this minimum level" (Löfdahl and Antemar, 2016). The Migration Court of Stockholm stated in 2016 in its comments concerning the Bill on the Temporary Act as follows:

At the same time, it is stated in the draft that it is not possible to predict the extent to which the number of asylum seekers will be affected, since Sweden's actions cannot be seen in isolation from other factors such as how many foreigners apply in the EU and what measures are taken by other actors (Löfdahl and Antemar, 2016).

The Swedish Red Cross in its report concerning the humanitarian consequences of the Temporary Act expressed doubts regarding how much the new Temporary Act contributed to the decline of the asylum seekers coming to Sweden in comparison to other factors.

During the course of the investigation nothing has emerged that speaks to the fact that the Temporary Act (2016:752) would be the reason for the decline in asylum reception during the spring of 2016; on the contrary, it was frequently mentioned that the decline was due to other circumstances. The decline could already be noted before the law was enacted, particularly when several countries in Europe closed their borders, and Sweden introduced stricter ID checks and the agreement between EU Member States and Turkey was negotiated (Beskow, 2018, p. 6).

In conclusion, the statements made above can show that the political considerations to limit migration have dominated over all other considerations including humanitarian ones with the main justification that this is a temporary situation. The SMA's civil servant in the same meso interview, expressed his own understanding and confirmed this conclusion too.

So it was just politicians who wanted to give a signal and the SMA told them that is okay and we understand that you want to give the signal but you really affect kids and old and sick people but that was the thing they wanted (SWE_190219_Meso_No 6).

5.1.2 Extension of the Temporary Act and the Future of the Swedish Protection Regime

The validity of the Temporary Act (2016:752), as it is indicated in its title, was temporary and expired on 19 July 2019. Therefore, the Swedish Government presented a bill to extend this Act another two years until 19 July 2021 and to add some legal changes on a humanitarian basis. These changes were related to the possibility of family reunification for those with subsidiary protection status (*skyddbehövande*). The beneficiaries of the subsidiary protection status could not apply after July 2016 for family reunification under the Temporary Act without

meeting the maintenance requirements. These requirements are *firstly* the applicant's ability to support him or herself as well as their family members who would apply to be reunited with them in Sweden and *secondly* to have a home of sufficient size and standards for all the family members. The legal changes were introduced after the extension of the Temporary Act. They gave the beneficiaries of the subsidiary protection status equal rights as those with refugee status and enabled them to be reunited with their family members under certain conditions. These conditions are if the applicant in Sweden is deemed to have well-founded prospects of obtaining a permanent residence permits. Spouses and cohabitants should not normally be allowed to take their partner to Sweden if either party is under 21 years of age. In addition, the family reunification application should be lodged from 20 July 2019 and latest before 20 October 2019. Furthermore, these legal changes introduced also the possibility for permanent residence permits in certain cases for foreigners who have been born in Sweden and have been stateless since the birth (Regeringskansliet, 2019b). This bill was approved by the Swedish Parliament and entered into force on 19 July 2019. This approval came after a long referral process where different actors within the legal migration, judicial and humanitarian contexts as well as in the integration field shared their comments and views (Regeringskansliet, 2019c).

Some of the general remarks and observations concerning the government bill for the extension of the Temporary Act, which were commonly shared and submitted by the concerned actors before March 2019, can be summarised as follows:

The Migration Court of Appeal in its comments concerning the bill for the Temporary Act extension highlighted its previous comments and criticism during the referral process concerning the bill for the Temporary Act in 2016. In its current comments, the Migration Court of Appeal emphasized among other things the difficulty in providing guidance and precedents (Linder and Hjulström, 2019). As it was explained above the short temporal character of the Temporary Act could potentially jeopardize the required stability and legal certainty for well-scrutinized guidance and precedent for the legal application of such a law by the first instance and appeal courts. Thus, the same logic applied here to the two years temporary extension of this already Temporary Act. The Migration Court in Malmö shared the same view and states that the Temporary Act has been enforced for almost three years and the difficulties in its application that were highlighted in its previous comments in 2016, remain, in the Court's opinion, essentially unchanged today. In addition, the Court indicates the absence of a well-scrutinised legal study and analysis of economic consequences of the bill to prolong the Temporary Act and its outcome. The Court also considers that in certain cases the complications of its application, which were previously highlighted in the Court's 2016 comments, still exist solely because this Act is going to be extended. For example, this applies among other things to the proportionality assessment in light of the CJEU's precedent concerning Article 8 in the European Convention of Human Rights. Therefore, the Court does not see how this Temporary Act can be compatible with the protected children's rights in the UNCRC (Sjöström and Kristensson, 2019).

The Swedish Public Employment Service recognizes a relation between the extension of the Temporary Act and the risk of prolonging the integration or settlement process. Since the extension of the Temporary Act means several extended temporary residence permits and a lot of bureaucracy the Employment Service explains how hard it becomes to plan and invest in the long term with the aim to enter the job market when the next extension is not guaranteed. This leads in the end to newly arrived persons with high skills having to compete with people with low skills as the past experience of the employment service shows. However, the Employment Service regards the possibility of family reunification for newly arrived granted subsidiary protection status as a very positive step towards integration in the Swedish job market (Mindhammar and Bevner, 2019).

The SMA's comments, which were submitted on 18 March 2019 during the referral process to ratify the extension of the Temporary Act, include different remarks and criticism. These remarks describe how difficult and complex the Temporary Act will be to understand when this act is extended (SMA, 2019f). These comments focus on different aspects concerning the anticipation of the negative consequences of the extension of the Temporary Act and were summarized under two headings as follows:

The humanitarian aspects and the international commitments of Sweden: The SMA warns in its comments against the possibility of deporting and returning children and severely sick people, which is against Sweden's international commitments. This is an urgent question to answer particularly since UNCRC is going to be incorporated into Swedish law in 2020. The Director -General of the SMA Mikael Ribbenvik states the following in this regard:

We see that we will continue to have to expel severely ill children who were previously granted a residence permit. The Rights of the Child Convention is going to become Swedish law in less than a year, but we do not think that the law has taken this into consideration since the extension of the Temporary Act will then apply (SMA, 2019f).

Complications in the implementation: the SMA in its comments confirms the fact that the text and formulation of the legal changes in the temporary law is already complicated and not clear. Therefore, the extension of this Temporary Act would add even more complexity. These comments include the Director-General of the SMA Mikael Ribbenvik's statements regarding the complexity of this act where he stated that with this Act there are consequences which have never been seen before. (SMA, 2019f). In addition to the ambiguity of those legal changes, the amount of human resources required to handle the applications and investigations are enormous which means a long processing period, waiting times and handling process. According to the SMA, there are more than 30 000 extensions or renewal applications during the coming year (SMA, 2019f). The Director-General states:

This (extension of the Temporary Act) will mean that the applicants (asylum seekers) are going to be affected by long processing periods due to all the calculations and balances which must be done. It can be good if the Act clarifies which circumstances should be considered (SMA, 2019f).

On 11 April 2019 The Swedish government, which is represented by the Minister of Justice in migration matters after having received these above-mentioned viewpoints, comments and observations, explained its position as follows:

Although the number of asylum seekers has decreased, the burden on the reception system is still high and the situation in many municipalities is strained. We continue to take responsibility for a sustainable migration policy and therefore propose that the temporary law will be extended for two years (Regeringskansliet, 2019a).

5.1.3 Management of the Protection Regime under the Act on Upper Secondary School Education

In 2015, particularly in the autumn of that year, out of 162, 877 asylum seekers, 35, 369 unaccompanied minors applied for asylum in Sweden. The vast majority of these unaccompanied minors were from Afghanistan and 17, 568 of them were between 16-17 years old. The high number of asylum-seekers arriving in Sweden in 2015 resulted in long handling periods of waiting for the outcome for the applicants that sought asylum at the SMA (Länsstyrelsen, 2019, p.7). For example, in 2017 the average time for a first decision in asylum cases was 14 months (Länsstyrelsen, 2019, p.7).

For those unaccompanied minors between the ages of 16-17 had applied for asylum in 2015 the long handling periods meant that many had turned 18 before they got their first decision, meaning that this was the difference between being rejected instead of being granted asylum as an underage asylum seekers (Lansstyrelsen, 2019, p.7).

One could argue that those unaccompanied underage asylum seekers after the rejection of their asylum applications are not any more under the protection regime. Nevertheless, it can also be argued that their legal status and granted studies residence permits are directly related to the protection regime management. The minority government of the Social Democrats Party and Green Party initiated on humanitarian grounds a political solution in two stages to deal with the deficiency of the protection regime's ability to manage such situation because of the undue asylum process. In addition, these new regulations became a new section of the Temporary Act (Chapter 16, a-f paragraphs) not an independent act which regulates a part of the migration regime in Sweden.

The first stage was for those minors that during the temporary regime had been granted temporary protection. There was for them a new supplement to the Temporary Act introduced 1 June 2017 that offered an opportunity for a longer residence permit in order to complete the upper secondary school education and apply for employment later on (SFS 2017:252). The second stage came with another adjustment in the Temporary Act and made a year later (SFS 2018:756). With this adjustment the young adults that had come as unaccompanied minors but been rejected in their asylum case now also had a chance to apply based on pursuing upper secondary school studies. Some of the criteria that needed to be fulfilled for this Act to apply was that the minor needed to have applied for asylum before 25 of November 2015 and had had to wait for longer than 15 months for the result of the asylum application. If the applicant had waited 15 months and received a negative decision under the Aliens Act before the Temporary Act entered into force on 19 July 2016 then this provision did not apply. This opportunity to apply for residence permit for studies was limited in time and could only be done between 1 July 2018 and 30 September 2018 (Lansstyrelsen, 2019, p.7).

The response from the courts and civil society alike, expressed a clear caution on the structure and content of the two supplementary laws at the same time they were positive to the legal initiative (Regeringskansliet, 2018). From the courts' side the Migration Court of Appeal presented criticism from several perspectives (Linder and Odung, 2018, p.1). Technically speaking the Acts as such were not accessible which made it hard to know which articles were to be implemented under which circumstances. In addition, several of the exceptions included were not easy to understand according to the Court. The court's overall comment was that it was difficult to get a general overview of the actual consequences of the Acts. The unclear structure and content made it difficult for the individual to understand under which circumstances a person could be given residency for studies on the ground of the Act on Upper Secondary School Education. The Migration Court of Appeal warned in its statement that this uncertainty and vagueness might risk leading to complications in the implementation of the Act, in particular for the SMA, but also for the various courts. The criticism of the Migration court of Appeal was so harsh that it concluded in the final sentence of their statement that:

The proposed Bill as it is initially presented has such grave faults that it should not be implemented (Linder and Odung, 2018, p.4).

The Swedish Bar Association and the Swedish Red Cross were both positive towards the initiative of the government to enhance the situation for the young individuals that had been placed in a precarious legal situation because of the changes in the migration regime and lack of a coherent and comprehensive precedent (Ärnlöv, 2018).

Simultaneously, the Swedish Bar Association was not ready during the referral process in February 2018 to support the Bill because of the way it was structured. They insisted that the two connected legislations were legally and technically too complicated and too hard to get an

overview of. As was already touched upon in the above section this made it difficult for the legal institutions to apply the Act, and what was worse for the individual to understand and grasp the meaning of the content (Ramberg, 2018). The Bar Association concluded their comments in the following way:

The proposed Act does not even meet a low standard of clarity and predictability (Ramberg, 2018)

The SMA confirmed in its comments, submitted on 12 February 2018 during the referral process of this legislation the Migration Court of Appeal's concerns regarding the vagueness of the draft and structure of the proposed Act's articles. It indicated that the suggested supplements in relation to the Act on Upper Secondary School Education being included in the Temporary Act would bring complexity to an already very complicated legislation. Therefore, the SMA's comments warned of the negative consequences and effects on legal certainty in the legal and judicial system in Sweden (SMA, 2018c).

The SMA's civil servant described during an interview, conducted on 19 February 2019 the SMA's reaction to the structure and formulation of this Act as well as the experience of its implementation as follows:

We told the government if you draft it like this, these people (asylum seekers) will not get any money and they would have no place to live. In the end, this caused lot of problems. Initially they answered us: "It's not a problem because you (the SMA) will handle these 9,000 cases in a month and then it will not be a big problem" but then the court said stop it for a couple of months and then it was a major problem and we were right and the government's answer was incorrect. So that was a big problem (SWE_190219_Meso_No 6).

The SMA's civil servant also provided an overview concerning their experience of implementing it over several months and the most problematic issues in it (SWE_190219_Meso_No 6), which can be summarised as follows:

According to civil servant the age assessment was one of the main obstacles or problematic issues in relation to this Act. Being under 18 years old when arriving Sweden before 24th November 2015 was one of the conditions to apply this Act in order to receive a residence permit. The Act on the Upper Secondary School permits considered only the first age assessment done by the SMA during the influx of asylum seekers in 2015 before 24 November and discarded the second age assessment during the asylum interview. The first age assessment was conducted in a superficial way because of the pressure that the SMA was working under during 2015. The SMA's main concern then was logistics-related matters for example concerning accommodation and food to the vast number of asylum seekers coming every day during that period. The physical appearance of the asylum seekers and their claim were the only tools to assess their age, which was not the main focus of the SMA's staff then. The second age assessment was conducted during an RSD interview in a way that was more adequate and X-ray tests were also used to assess the age of the asylum seekers. However, the second age assessment was skipped while the first assessment from 2015 was the only valid or accepted one by the SMA. As a result, many applicants, whose age was way above 18 years and claimed to be underage when they sought asylum before 24 November 2015, got to benefit from it. On the other hand, some other young asylum seekers who might be under age then and their claim concerning their underage status was rejected or who applied after 24th November, did not get the same chance. This ended up with an unfair and non-transparent outcome for some applicants as the civil servant described it.

The SMA's civil servant also explained in response to the question on the possibility to correct an asylum seeker's age if the initial evaluation seemed to be conducted wrongly in the following manner:

It was possible to do so but the content and structure of the Act could not help to achieve that. So it was eventually very much up to the individual case worker to decide (SWE_190219_Meso_No 6).

The SMA's civil servant also added more details concerning the anticipation of other problems in relation to the implementation of this act. Those granted residence permits on the grounds of the Act on Upper Secondary School Education would need to renew their residence permits soon at the SMA. This meant the SMA would require guidance in relation to the definition of certain concepts such as the duration, the active or passive participation and the interruption of these studies in order to determine the renewing of these residence permits. This guidance by the Migration Court of Appeal was still not available when the RESPOND team interviewed the civil servant in February but he expected to get some guidance in this regard by the end of 2019.

Other related problems that the applicants faced in order to extend their residence permits on the basis of the Act on Upper Secondary School Education were related to housing and access to adult education as the SMA's civil servant added. The SMA had to reorganize its facilities after the decrease in the number of asylum seekers and close down much of its accommodation facilities and oblige those living there to move and fall under the municipalities' responsibility. This meant that the beneficiaries of the Act on Upper Secondary School studies would move far from where they used to live and have to settle there. This also meant an interruption in their studies, making studies particularly challenging especially when one considers that schools in Sweden sometimes have very long waiting lists. Additionally, a majority of those beneficiaries who had turned twenty years old during the previous year and this year, which meant that they should move to adult education schools from the youth schools where they were initially placed. The access to the adult schools was not necessarily guaranteed in all the Swedish municipalities since they were governed by different regulations in this regard or had different limited capacities to register them. This created an obstacle or pressure not only for the beneficiaries of the Act on Upper Secondary School Education but also for the SMA to interpret the Act to fit different scenarios in the light of the circumstances that the civil servant described.

A Swedish lawyer for the Swedish Red Cross shared her daily experience when she used to provide legal counselling through a telephone service during an interview with the RESPOND team. This negative anticipation from the court system for the individual stuck in the system was proven to come true as she explained:

Many young people, their support persons, legal guardians and others that we meet are often very confused and worried about whether or not their application for studies will be approved. This adds an extra level of stress and anxiety for the entire group. There are many worried callers to our Red Cross migration hotlines with questions regarding the application of the law. They are doing everything they can to meet the requirement but in reality there is a higher level of uncertainty here, more than for any of the previous laws (SWE_191001_Meso_No9).

The Swedish lawyer for the Swedish Red Cross also added that her experience in contacting the SMA to get clarification regarding vague rules in relation to the Act on Upper Secondary School Education was not positive either, as follows:

We as legal professionals are also experiencing in several instances, where we get mixed signals from the agencies trusted to implement the laws, sometimes different answers from the same agency, and of course this is never a good thing for the individual concerned, or for us that are trying to help them navigate in this unsafe water (SWE_191001_Meso_No9).

5.1.4 Management of the Swedish Migration Agency before and after the implementation of the Temporary Act in 2016

On 8th December 2018 the RESPOND research team conducted a round table discussion where different experts, activists, and other involved actors within the protection regime joined the discussion (SWE_181208_Meso_No 10). Several matters and urgent questions in relation to the protection regime, particularly before and after the 2015 asylum seekers influx and the implementation of the 2016 Temporary Act started, were brought up during the discussion. One of the main topics was regarding the participants' experiences of interacting with the services provided by the SMA. Thus, the proficiency, expertise and quality of the legal assessment and asylum process led by the case officers and officers were reflected upon. A shared observation among the participants was that the SMA recruited many young newly graduated staff to do the case working and handle the influx of asylum seekers to Sweden. This led to inconsistent outcome and in some cases unjust decisions.

A Swedish migration lawyer described during a meso interview her experience with the asylum interview and process since 2015. She described how refugee law and asylum cases were differently treated in comparison to other areas of law such as criminal or tax laws. The field of refugee law has been taken, based on her experience, with less seriousness and less proficiency. She also confirmed the above-mentioned shared observation in the round table discussion and described her experience with less-experienced case officers and civil servants at the SMA. She clarified reasons behind the difficulty in recruiting and training by the lack of young staff's motivation to stay at the SMA since they had better career alternatives.

A lot of young people work there and don't stay a long time. They are 25 years old, and they work there for a year or two and then move on because it is one of the stepping stones in their career (SWE_190215_Meso_No 5).

The SMA detailed in its comments submitted on March 2016, during the referral process to pass the Temporary Act the different potential consequences of such legislative changes (SMA, 2016). These consequences as explained in its comments would require a big increase in the resources to meet the new legislation's stipulations for several reasons that can be summarised as follows:

First, the SMA indicated that it would work with two parallel legislations namely the old Aliens Act, for example for those who applied at the latest by 24th November 2015 and families with children etc. Simultaneously, it would work with the new Temporary Act for those who sought asylum after 24th November 2015. **Secondly**, the new legislative changes would mean that the refugee status declaration would become more important than before. This was because the differences between subsidiary protection status and refugee status would become more important with the Temporary Act than in the old Aliens Act. These differences would be related to the residence permit's duration and entitlements such as the right for family reunification. **Thirdly**, the SMA anticipated that the request for an oral hearing would increase with the purpose of change the status from subsidiary protection status to refugee status since status as a refugee would encompass more rights for the individual. **Fourthly**, the SMA considered that the complexity of the legal assessment would also increase the number of appeal cases. This explains the SMA's anticipation that the waiting period for the residence permits would increase as well as eventually the need for training and educating the staff. It seems that it was apparently clear to the SMA that they needed to increase the number of staff and their training. However, the SMA cautioned in its comments that there was a big risk

that the overall development would not be prioritised or put back in light of the above-mentioned circumstances and anticipations (SMA, 2016).

The previously mentioned observations by the lawyer and from the round table were shared and discussed with the SMA's civil servant during a meso interview, conducted on 19 February 2019 (SWE_190219_Meso_No 6). The SMA's civil servant provided an overview on how the SMA handled and experienced the 2015 influx of asylum seekers and later on legislative changes during 2016, 2017 and 2018. He explained that the number of persons who were coming and seeking asylum in Sweden in the autumn of 2015, exceeded 160,000, which left no choice for the SMA than to recruit more staff. This also led to a decrease in the focus on the staff's education, training and development exactly as the SMA's comments predicted in March 2016. This eventually affected the quality of the legal process negatively. The SMA's civil servant also explained how this influenced the recruitment process and staff stability and how this has changed during the years until 2019 when it got more stable as follows:

So then you (newly recruited staff) had less intensive instruction than what you usually would have when you had the normal sort of things, one (staff) quits and then another one starts. Actually, the situation was that one quits and ten start. So, that was a big problem for a couple of years. Now in 2019, it has started to shape out. Now we have not as many people coming in and, not as many people going out, the regular cases have staff who have been working here for like two and a half years and are starting to gain experience. But during 2015, even before that in 2014, 2015 and 2016, we had a lot of problems with training a lot of new and inexperienced case officers and that gave us problems. But we couldn't do more because then we would have not handled things. Of course, it has some impact on the quality (SWE_190219_Meso_No 6).

The SMA's civil servant also explained how the lack of experience and training among the newly recruited case officers led to the prolongation of the time and efforts exerted in the asylum process and made the waiting period longer. As a result, other complementary interviews were needed to complete the missing answers and questions in the first asylum interviews in order to reach fair and consistent decisions. This was a common situation at the SMA for a couple of years which, as it can be interpreted, put the asylum seekers under stress and pressure too. The SMA's civil servant also mentioned that the majority of asylum seekers used to come from five main countries of asylum. However, this had changed and asylum seekers from those five countries did not represent more than 30 percent of the asylum applications of the SMA case load at the time of the interview with RESPOND team. While more asylum seekers from other countries than the above-mentioned five countries had recently been seeking asylum in Sweden. This required more experienced case officers and put more pressure on the quality of the asylum interview as the SMA's civil servant explained.

According to the SMA's 2018 annual report, during 2018 the workforce decreased significantly and the annual average number of employees at the SMA decreased by about 1,300 or 18 percent compared to 2017 (SMA Annual Report, 2018 a, p.21). This information was shared and discussed with the SMA's civil servant during a meso interview, conducted on 19 February 2019 (SWE_190219_Meso_No 6). He was asked to reflect on how the SMA managed this decrease of the employees and if this decrease has created any kind of insecure employment environment amongst employees. He described how the SMA has reduced its staff number as well as units' number in the beginning of 2018.

So that's quite a big change of staff and it's the same all over Sweden. You have to close down a lot of units and lay off a lot of case officers. Depending on when we closed down

4 units and left Gävle, in the beginning of 2018 where we've been for a long time that gave us a massive burden. It was quite hard and we had a lot of experienced people we had to lay off (SWE_190219_Meso_No 6).

The SMA's civil servant also added that selecting which units to shut down was the government's decision not the SMA. In addition, the criteria to select who should stay and who was to be dismissed, was not related to the long experience or qualification of the case workers. But rather based on the placement of those employees such as if they were placed in a unit that was to be shut down. The movement of change within the SMA was different from one office and department to the other. However, this situation changed and had become more stable since the beginning of 2019 as the SMA's civil stated. For example, the case officer at the SMA would not be dismissed if a unit was to close down but they would be moved instead to work somewhere else within the agency's different departments and offices. The SMA's civil servant confirmed that those circumstances affected the length of the handling time. In addition, he explained that the activities and services provided by the SMA were very much dependent on the government's decisions. The provided budget during the last election caused a delay in all the related decisions to the SMA's budget and that affected the Agency's planning negatively which eventually also prolonged the handling time too, as he described it.

5.1.5 The Swedish Migration Agency Services and the Budget Limitation

Some of the SMA's services, which the RESPOND research team have focused on and studied them, are related to access to information, citizenship application and acceleration application. A representative of an NGO (SWE_190208_Meso_No 4) in Sweden described the experience of their asylum seeker and refugee beneficiaries concerning the services provided by the SMA, particularly the access to information. He explained that the SMA usually provided the asylum seekers, when they visited its centres seeking asylum, with different brochures containing necessary information regarding their rights and the protection regime in Sweden. In addition, they were usually also provided with more oral and written information during the refugee status determination (RSD) interview. However, he added that their asylum seeker and refugee beneficiaries' experience was very negative when it came to the SMA telephone and mail services. They usually complained that it took them a very long time before reaching a case officer through the telephone service or right answer through the mail service. Most of the time they would even not reach a case officer and they were requested to try again the next day. In addition, in certain cases they would also get wrong and vague answers regarding protection related matters. In other cases, they would receive automatic answers, which could not relate much to their questions.

These complaints were presented to the SMA's civil servant during a meso interview conducted on 19 February 2019. He provided an overview regarding the different factors that could play a role in this negative outcome as follows:

I understand that we have problems with questions and our answers. It's a problem with the budget and money. If we had more money and more time to answer the questions... but we're trying our best. When the government gives us these mixed signals that first of all, you should handle every case in six months, second of all, we will give you less money and you have to lay off a lot people and units and you have to place a lot of cases

in a queue because you should not focus on them. It doesn't fit together (SWE_190219_Meso_No 6).

The civil servant added more details regarding the factors behind the deficiencies in the services provided by the SMA, which can be summarised as follows:

The SMA had had a big workload but even fewer numbers of staff and case officers than before to meet the increasing requirements of professional case work. Simultaneously, a new Administrative Act (*förvaltningslag 2017:900*) entered into force on 1 July 2018 in Sweden which introduced a new regulation whose aim is to accelerate case work. This procedure would oblige the SMA as a public authority to process, conclude the cases, and take decisions within a period of six months or to provide explanations to justify the delay in the procedure. Then, the applicant had the right to appeal the decision to the appeal court, which should look into consideration the reasons for the delay, and it could accept them or not. In addition, the SMA had received a large number of citizenship applications, which required an even larger workforce to manage them. The citizenship applicants had mastered the Swedish language and knew their rights and the rules. Thus, they used often this accelerated procedure measure, which was not the case for all asylum applicants as the civil servant described it. Thus, the SMA case officers did not have a choice except to prioritize the citizenship applications at the expense of asylum cases since asylum seekers did not use the acceleration measure. Nevertheless, the asylum application cost the SMA a lot for various reasons such as accommodation and legal representation as well as prolonging the process. According to the civil servant, this was not a reasonable, logical or consistent outcome with the government's aim of reducing the budget. Since citizenship and family reunification applications did not cost anything for the SMA in comparison to the asylum applications. As a result, the SMA did not have the required resources to provide a professional telephone service, particularly when the majority of addressed questions were related to the results of their asylum applications.

Another observation mentioned by the same civil servant from the SMA is related to exclusion cases. The Swedish Aliens Act stipulates the grounds, which are based on Sweden's international commitments particularly the exclusion clauses of the 1951 Geneva Convention, for excluding an asylum applicant from international protection. According to the Aliens Act (Ch. 4, para 2 b) a foreigner can be excluded from being considered a refugee if there are special reasons to assume that he or she has been guilty of:

1. Crimes of peace, war crimes or crimes against humanity, as defined in the international instruments established to address such crimes;
2. A serious non-political crime outside Sweden before coming here, or
3. Acts contrary to the purposes and principles of the United Nations in accordance with the preface and Articles 1 and 2 of the Charter of the United Nations.

The exclusion grounds and crimes were getting more and more attention by the SMA and its case officers. Therefore, the training for the case officers in relation to exclusion grounds and cases has increased and specialists in this regard were distributed to every unit according to the civil servant. However, this was not the case previously as the civil servant described here:

But if you look historically, especially if you go seven or eight years back, that knowledge was really slim and now I would say it's quite okay, even though probably we would find places where there are gaps, individual cases where we've been too rough or too

lenient. But it's developing and becoming better and better. But the hard thing is that the things you say during asylum interview, are of really high confidentiality and you can't make statistics of that, you can't look for it, and you can't review it on a big scale. This makes it hard to know about exclusion, which kinds of cases are the ones that we are excluding, and what is the profile or which country we are looking for (SWE_190219_Meso_No 6).

The development of the handling of exclusion at the SMA shows how important education and training are to get qualified human resources to deal with these cases. This might be negatively affected by the limited budget provided to the SMA by political decisions.

5.1.6 Public Counsel Services and Legal Representation in Sweden

The Aliens Act (2005:716) stipulates in chapter 18, paragraph 1, that public counsel shall be assigned for the person seeking asylum, unless it can be assumed that the need for public counsel assistance is lacking. The RESPOND research team has come across different deficiencies during its investigation in the field concerning services provided by the Public Counsel in Sweden.

A representative of an NGO which provides asylum related counselling, gave an overview regarding the accessibility and quality of the legal representation (SWE_190208_Meso_No 4). He explained that their role is to supplement the services provided by the SMA and other governmental agencies. He explained that all asylum seekers have the rights to legal representation free of charge as the cost covered by the SMA and the Migration Courts, unless the positive outcome of asylum claim is guaranteed as in the case with Syrian or Eritrean asylum seekers. He added the following:

Asylum seekers are given the chance to choose their public counsel in the beginning when they arrive in Sweden and have no contact with anyone in Sweden. When they get this contact, it is already too late and the SMA has already selected the public counsel for them. It is almost impossible to change the public counsel in reality. In addition, the process in which the SMA selects the public counsel is neither clear nor transparent. The majority of lawyers, whom our beneficiaries have had, are professional and dedicated to their clients but there are some of them who were careless and neglected their duty and there was no accountability for the quality of their job (SWE_190208_Meso_No 4).

A representative of FARR, an NGO which also provides legal counselling for refugees and asylum seekers and advocates for their rights in the Swedish society, confirmed the absence of any examination or evaluation of the quality of the legal representation provided by the public counsel and stated:

If you are just a solicitor, if you just have a degree in law, then you can take on these cases. And even though you are not necessarily very good at what you do, you do your best. And case officers read on a daily basis, bad submissions, but they don't react to them. They're just accepted, this is it. And sometimes I've taken over bad cases and been able to turn them around. Sometimes I've worked with bad lawyers as an extra representative and been really frightened by the lack of knowledge of these persons (SWE_190319_Meso_No 7).

These observations concerning the quality of legal representation were shared and discussed with the SMA's civil servant during a meso interview, conducted on 19 February 2019 (SWE_190219_Meso_No 6). The situation of the legal representation as he explained it can be summarised as follows:

The asylum seeker is asked once he or she arrives if they would prefer to choose a public counsel or if the SMA can select one for them. There is usually a small chance that the asylum seekers would have preferences since they have been in Sweden for a short time and they do not have contacts in Sweden. Nowadays, the SMA has a digital system where, those who are interested in being public counsel can register their desire and availability to take asylum cases assigned by the SMA. This computerized system automatically selects the available public counsel on a random and geographical basis.

According to the SMA's civil servant the SMA previously used a different system to provide legal presentation to the asylum seekers when they were not able to afford it on their own. Those who are interested in being public counsel, mainly lawyers and solicitors would register their credentials at the SMA, which had a list of those public counsels to choose from in case the asylum seeker did not have any contact or preference to choose own public counsel. The SMA would select those public counsels who were usually known to the Agency by their good work and dedication in the asylum cases. Accordingly, the good quality of legal presentation can positively affect the legal process and effectiveness of the SMA's work in asylum cases as the civil servant described it:

It is good for the SMA that the applicant's lawyer is good and that he's taking care of his client, because then we (the SMA) can make the right decision and we have good cooperation (SWE_190219_Meso_No 6).

As the civil servant explained the problem with the old system was that the SMA depended on a small number of very expert public counsels who had done high quality litigation and legal presentation for a long time. This meant that it was very difficult for the new and young lawyers and solicitors to get a chance to work within the field. So according to him this system was perceived as an unfair one.

They are good at it, you won't do anything wrong and the clients will be happy but is it fair to the new lawyers who want to come in? Are they the best? I don't know because maybe someone new who is really sharp (SWE_190219_Meso_No 6).

The SMA changed this system under pressure from the Swedish Bar Association. According to the civil servant the new system has many deficiencies and it can be manipulated and this was very clear after the crisis in 2015 when a large number of people sought asylum in Sweden. This system was not ready for such situation and crisis. This prolonged in 2016 the period before the asylum seekers would get public counsel and set up a meeting with them. This eventually undermined the quality of the legal representation and made it more difficult for all involved actors in the process. In addition, Swedish law has made it very difficult to change public counsel. The SMA's civil servant stated here:

There was a famous killer who killed a lot of people in Sweden, he threatened his lawyer by death during the court proceedings and the lawyer said I want to change. The Judge said, no. In Swedish law, you have to have a solid case to change your lawyer. It's really hard (SWE_190219_Meso_No 6).

The lawyers, according to the SMA's civil servant (SWE_190219_Meso_No 6), have manipulated these lacunas in the current system as follows:

The problem is that a lot of lawyers use the system. They have many people hired for them to take their cases on their behalf and therefore they could always be available to receive cases. The lawyers use the system and get many cases that they cannot handle and they should not but they give the cases away to other people. So in theory, I think

the way how the SMA manages the system is okay, but in practice you get problems because it's the lawyers who get paid for doing this, and of course they want to have a lot of cases to their law firms and then they use the system. So you can criticize our system but you can also criticize the lawyers for using the system (SWE_190219_Meso_No 6).

5.1.7 Dublin Regulation Implementation to and from Sweden

A representative of an NGO (SWE_190208_Meso_No 4) in Sweden shared the knowledge and experience of the journey of their asylum seekers beneficiaries between Sweden and the other EU member states that can be summarized as follows:

According to him a number of their asylum seeker beneficiaries, who exhausted all the appeal stages during 2016 and 2017 and a final rejection decision in their case entered into the force of law, moved firstly to Germany to seek asylum there. The majority of them were Afghani citizens, and later on they received another rejection decision in Germany. Thus, they were requested to return to Sweden, which was the first asylum country in light of the Dublin Regulation. However, some chose to move to France and seek asylum there instead. The majority of them were surprisingly granted asylum there, and they were not sent back to Sweden. According to him, this positive outcome misled and gave an incentive to other asylum seekers who got a rejection decision in the first instance not to appeal and move to France. Sometimes, some asylum seekers, who felt frustrated at the long asylum process or those who felt that they did not have a good asylum interview, moved before even receiving the SMA's decision in their cases.

These observations and findings were shared and discussed with different involved actors in the field of Dublin Regulation and asylum process as follows:

A Swedish lawyer, specialized in migration and refugee law and human rights, (SWE_190215_Meso_No 5) described the difficulties she was facing when she tried to inform her clients of the differences between refugee law and its implementation in reality. This was particularly clear for her in the case of the Dublin Regulation's application among different EU state members. She stated here:

Yeah, I know, I've heard about this as well. And that's why I'm saying it's very difficult because when I have clients, I give them advice, I cannot really give them the hundred percent sure advice, because they tell me like, I have a rejection or a refusal. So, can I go to Germany? And I say, well, by law, you cannot, because there is the Dublin Regulation which will be applied on you. You need to be here, in Sweden, Sweden is responsible for you. But I know there are cases that have been accepted, or in Italy, so I always say like, the decision is yours, but the risk is this. And if you're lucky, you might get this. So, it's not rumours but I think in this chaos that happened between 2015 and until now, things differ (SWE_190215_Meso_No 5).

The representative of FARR provided his explanation to the reasons behind the different applications of the Dublin Regulations among the different EU member state. He provided an example of a Dublin case for an asylum seeker from Afghanistan that he was involved in providing legal support to him. The asylum seeker moved from Sweden to France seeking asylum there after his asylum claim was rejected during the three instances in the Swedish procedure. The main reasons for the different application in his opinion is mainly related to the internal flight assessment among the different EU state members as follows:

I've been in contact with French organizations, French lawyers, and this case I talked to you about, he went through the French system initially and it was decided that he would

have his case considered in France. However, that decision was appealed and on appeal the judge decided that his case was still a Dublin case. Contrary to established French practice in the highest court, the judge believed that despite France not employing the principle of internal flight in relation to Afghanistan (as Sweden does) it was not a breach of Article 33 of the Refugee Convention on the obligation of non-refoulement to send this applicant to Sweden as he could submit a subsequent application there. In such a case, it was Sweden's responsibility to respect the non-refoulement principle in relation to Afghanistan.

The official French practice established at the highest asylum court states that there is a risk of non-refoulement to Afghanistan if applicants are sent to country that claims there is an internal flight alternative. That's why they say that sending people back to a country where they use the internal flight argument would mean that French responsibility would be there for sending this person back, basically, to Afghanistan. So, it's the respect for the non-refoulement principle, that forms the basis of current French practice, but it is unevenly applied (SWE_190319_Meso_No 7).

The above-mentioned opinions and findings were discussed with the SMA's civil servant who served in the Dublin Regulation Department at Stockholm Office during an interview on 24 April 2019 (SWE_190424_Meso_No 8). He shared his own understanding and reflection as a case officer with the RESPOND research team. There are several explanations, reasons and scenarios, which could clarify the different outcomes of the Dublin Regulation's application according to him that can be summarised as follows:

The EU member states are supposed to transfer back the asylum seekers to the first country of asylum when the application is recognized as a Dublin case and all the appeal stages in relation to the return decision are exhausted within a certain period. They are also obliged to send a request to the responsible country during a certain period, which is two months. The EU member states sometimes do not successfully meet the deadlines in responding to a request and then they are obliged to give a new chance to the asylum seekers and examine his or her asylum claim. The SMA's civil servant stated here the following:

We always make sure they receive it because we have an electronic database, which is used by the member states only. But it's the same as in Sweden, if I tomorrow by human flaws, I mean, I'm sick, or I'm not doing my job within the regulation, I forget to reply to a request. Then Sweden is the responsible member state according to the regulation. So this is where it gets tricky (SWE_190424_Meso_No 8).

In addition, asylum seekers during this long period could have learned to express their asylum claim in a better way as he explained it:

Also bearing in mind that asylum seekers, like any other human beings, might not share their full story with all the agencies, there might be also interpreters that lose something (SWE_190424_Meso_No 8).

Another reason behind the different applications of the Dublin Regulation in his opinion could lie in the different usage of the humanitarian clause in Article 17 of the Dublin Regulation and security evaluation of the country of origin. Therefore, they decide not to transfer an asylum seeker to a country where they believe the asylum claim might be rejected and the asylum seekers might be sent back to dangerous areas. The SMA's civil servant stated here:

But to answer your question, do we do things differently? I would say in the majority of cases, 'No'. But there are some cases, many years ago, some Member States viewed

different areas in the Middle East as not dangerous, other member states did. They still viewed them as war-zones (SWE_190424_Meso_No 8).

5.1.8 Internal Flight Alternative Assessment in Sweden

A representative of an NGO in Sweden explained that the assessment of the internal flight alternative (IFA) in the asylum process may have been the main ground of the rejection for the majority of their Afghani asylum seekers beneficiaries as follows:

The SMA and the judicial system in Sweden have excessively used the IFA assessment in the asylum process in comparison to other EU member states. This assessment in the Swedish context is built on two considerations related to the reasonability and relevance evaluation of the risk in case the asylum returns to the country of origin. It is not clear how it can be reasonable and relevant to send a male Afghani asylum seeker, who came to Sweden as an unaccompanied minor and has never been in Afghanistan, for example to Kabul which is evaluated as unsafe by UNHCR (SWE_190208_Meso_No 4).

The SMA's civil servant during a meso interview, conducted on 19 February 2019, (SWE_190219_Meso_No 6) commented on how the legislative changes brought by the Temporary Act since 2016 have not left any room to consider the child's best interests. He was asked how the assessment of protection needs for an Afghani unaccompanied minor takes into consideration the fact that he or she lived all or most of their life in Iran and/or has never been in Afghanistan before the arrival in Sweden. This is a common case among some Afghani asylum seeker minors who sought asylum in Sweden as the RESPOND's field research showed and his response was as follows:

That is one big problem with the new law (Temporary Act 2016:752) which we are going to inform the government on in our comments concerning this law's prolongation. The guidance we got from the Migration Appeal Court tells us that we cannot use the child's best interest as the sole ground for protection in light of chapter 1, paragraph 10 since it was left out from the Aliens Act. However, on the other hand the UNCRC is going to be a Swedish law, so they have to solve this situation since there is no space to apply this convention (SWE_190219_Meso_No 6).

This phenomenon has got the attention of the Swedish media and the Swedish Public Service news channel (SVT) in a published report on 24 November 2018 following situation of the many Swedish speaking Afghani teenagers in Paris (SVT, 2018 a). Those teenagers' asylum claims were rejected and the return decision was issued in their case in Sweden. This report described the miserable situation of many homeless Afghani Swedish speaking boys sleeping under a bridge with addicts and mentally unwell persons. Several interviews with Afghani asylum seekers were conducted and presented in this report. One of these interviews was with an Afghani man whose asylum application was rejected in the first instance and he left from Sweden to France without even trying to appeal the SMA's decision in his case. In France, he was granted asylum after he appealed the Dublin case. He accepted to reveal his name and picture and stated the following:

I became a Dublin case. They told me that I should have sought asylum in Sweden. They told me that if I do not want to return to Sweden by myself I should wait six months (...) I had nothing during six and seven months. Without a home, without money with nothing. It was difficult and I got help from different people who sent me money (...) Then they could not send me to Sweden and they could not say anything" (SVT 2018 a).

The SMA's Director-General Mikael Ribbenvik explained the reasons behind this phenomenon during an interview conducted by the same Swedish news channel SVT on 25 November 2018 (SVT, 2018 b). The Director-General provided an explanation why less than three of ten Afghani citizens are getting positive asylum decisions in the first instance in Sweden. While in France in contrast there is a green light for almost eight out of ten citizens getting positive asylum decisions as stated in the news channel's report headline (SVT, 2018 b). According to Director-General, the decisive difference is related to the evaluation of the situation of Afghanistan and he stated:

If the asylum seeker does not have the possibility of an internal flight alternative, then this asylum seeker is going to have a really high recognition percentage. (...) The first thing which is important to mention is that no country in the European Union has a general position towards Afghanistan. However, all (EU member states) make an individual assessment which leads to the differences mentioned. We have countries with a high percentage of acceptance and countries with an even higher percentage of acceptance (SVT, 2018 b).

Accordingly, the assessment of the IFA is very much linked or also dependent on the security evaluation of the place where the returnees are expected to return instead of their original habitual residence in their country of origin. The Director-General Mikael Ribbenvik explained during the same interview this relationship between internal flight assessment, security evaluation and the outcome of the asylum application (SVT 2018 b). He also clarified in his explanation the reasons for the big difference between the acceptance percentage between the asylum seekers who came from Syria and those who came from Afghanistan as follows:

When it comes to the security situation in Afghanistan the biggest myth is that the SMA believes that Afghanistan is safe! No this is just playing with the word. We absolutely do not believe that Afghanistan is a safe country and this is why we have given protection to 16 000 persons from Afghanistan. However, the debate is that many think that everybody should stay but asylum is rarely an all or nobody matter. It is an all or nobody matter for two countries Syria and Yemen today. We mean that the relation there is that the level of conflict is very t high and severe, which exposes all parts of the country. Afghanistan is not even close to the conflict level in Syria. This is different since in certain parts of Afghanistan there is full war. It is impossible to send anybody there. In other parts of Afghanistan, the situation is very serious for example the bombing in Kabul but not at the level that requires that everybody automatically should stay in Sweden (SVT 2018 b).

However, the SMA changed its position concerning the security evaluation in Syria and produced a new legal note on 29 August 2019, as will be explained in the next paragraph.

More details and added explanation in relation to the IFA assessment was given by a civil servant of the SMA during an interview on 19 February 2019 (SWE_190219_Meso_No 6). He was asked to explain how internal flight is assessed in Sweden in comparison to the UNHCR assessment and his comparison can be summarised as follows:

Firstly, the SMA has different views in comparison with UNHCR concerning the security situation in the country of origin in general and in relation to the IFA specifically. Secondly, the SMA has a tougher or higher level in evaluating the evidence of risk in the IFA as well as the burden of proof in comparison to the required level in the regular asylum case. Thus, it is enough for the SMA to claim the level of security and safety is ok, the asylum seeker can seek internal flight there. Simultaneously, the asylum seeker has a higher and tougher level of evidence to prove the opposite, which is not the case with the UNHCR.

I think we have a different view from the UNHCR, when it's enough. It's quite often ok for us in the SMA to say that there is nothing telling us that you (the asylum seeker) cannot return (to the IFA), then we have proved it (IFA is safe). Maybe we do it too easily or maybe alright, but I think we have a little bit differing views about it (SWE_190219_Meso_No 6).

5.1.9 Continuous Security Evaluation of the Country of Origin in Sweden

The SMA has a centre for the country of origin information and the world situation analysis commonly called “Lifos”. In this centre, reliable information concerning the countries of those who commonly seek asylum in Sweden is collected and analysed. In this centre, expert knowledge is produced and used in migration, asylum and protection related matters. The main mission of this centre is to serve the SMA in its legal and humanitarian assessment of the asylum applications (SMA, 2019 d). Thus, on the basis of the collected and analysed information by Lifos the SMA produces a guideline concerning the security evaluation of each country of origin from where asylum seekers usually come. In addition, the SMA’s legal department (*rättsavdelningen*) usually updates its legal position according to the changes in the security situation as in the case of Syria and Afghanistan. The SMA has announced a new legal position and guidance regarding the evaluation of Syria as well as the asylum assessment for asylum seekers from Syria. In the above-mentioned interview with the Director-General, he stated that Syria and Yemen were the only countries where almost everybody was coming from that could be granted refugee status. However, this has changed for the first time since 2011, and some parts of Syria have been considered safe as is the case in Afghanistan. On 29 August 2019, Sweden has been one of the EU member states to take such a new legal position and evaluation concerning the security situation in Syria. The summary of this guideline states the following (SMA, 2019 c):

1. The SMA must first assess whether the asylum applicant is a refugee (in accordance with Chapter 4. Paragraph 1 of the Aliens Act (2005: 716)). Such an assessment must take into account whether the person belongs to a particularly vulnerable group in Syria. An individual proactive assessment of the protection grounds must be made;
2. If the applicant is not recognized as a refugee, the question of subsidiary protection (in accordance with article 15 A-B in the qualification directive 2011/95/EU or Chapter 4. Paragraph 2, sub-paragraph 1 of the Aliens Act (2005: 716)) should be assessed. An individual proactive assessment of the protection grounds must be made;
3. In the provinces of Aleppo, Deir ez-Zour, Adlib, Hama, Homs and Raqqa, there is internal armed conflict and the prevailing situation of indiscriminate violence is so serious that each and every one is at risk of being exposed to protection grounding treatment (in accordance with Article 15 (c) of the qualification Directive 2011/EU95). The criteria for subsidiary protection requirements (according to Chapter 4. Paragraph 2, first subparagraph, second subparagraph of the Aliens Act) is therefore fulfilled for applicants with domicile / habitual residence in these provinces;
4. The security situation in other parts of Syria, except in the province of Tartous, is such that there is internal armed conflict (In accordance with Article 15 (c) of the Qualification Protection Directive 2011/95/EU). However, the security situation varies widely within and between these provinces. An individual assessment of the applicant's vulnerability shall be made (in accordance with the Elgafaji judgment criteria). Anyone who is deemed to be in need of protection due to the security situation in an individual assessment is covered by the Aliens Act (Article 15 (c) of the Qualification Protection Directive 2011/95/EU and Chapter 4. § 2, first and second subparagraphs);

5. In Tartous province, other severe disputes are considered to exist in light of the subsidiary protection definition (in accordance with Chapter 4. paragraph 2a, first subparagraph of the Aliens Act.);
6. Legal protection in Syria contains such deficiencies that it is impossible to refer anyone to the Syrian state for public protection. Nor does there exist any other party or organization that controls all or a significant part of Syria's territory that can provide protection;
7. Damascus may, in cases deemed exceptional, be a reasonable internal flight alternative for those who have sufficiently favourable social and economic conditions, for example, through a sufficiently socially established and financially stable network;
8. The issue of exclusion from being considered a refugee or subsidiary protection beneficiary in accordance with the Alien Act (Chapter 4. 2 b-c) shall be taken into account in each individual case;
9. There is currently no basis for revoking a status declaration because of the ceased need for protection due to the improved security situation in Syria. The assessment of whether a protection need has ceased is made in accordance with other regulations and criteria other than those that apply when assessing whether a protection need exists in an application for a declaration of status. When assessing revocation due to an end to the need for protection due to an improved security situation in a country, only significant and lasting changes can be taken into account. The SMA considers that such significant and lasting changes regarding the conditions in Syria do not currently prevail;
10. The issue of revocation of a protection status declaration may be questioned if the need for protection has ceased for reasons other than an improved security situation, if the applicant has previously provided incorrect information which led to him/her being given a protection status declaration or that the applicant has been deemed as excluded from protection status (SMA, 2019 c).⁶

Despite of the fact that each EU member state has its own view and its different mechanism and authority in assessing the security situation of each country of origin where asylum seekers are coming from, they are still influenced by each other as the SMA's civil servant clarified during an interview on April 2019 (SWE_190424_Meso_No 8) reflecting on his own understanding and experience in working the Dublin section at the SMA as follows:

Of course, what is very important to know is that the SMA is a civil authority, although we have access to the police, we're not an authority which falls under the police, which is the case in other countries. Take the UK, they have a Home Office and, they have vast knowledge on what's happening in Kabul. Can we use that knowledge? Sure, if it's, you know, shared with us through the right channels. So it does happen from time to time. And this is what I talked about especially in the Middle East, that different member states view the situation differently. And this goes back all the way to the government. I'm not sure who does what in our government. And I'm not sure who does what in France, Germany. But yes, it does have an impact, not only on how we work with the Dublin Regulation, I would say it has a bigger impact on asylum units in Sweden, where they actually consider expulsion to a third country outside of the EU territory (SWE_190424_Meso_No 8).

⁶ The author's translation.

5.2 Micro-Level Analysis

5.2.1 Choosing Sweden as the Country of Asylum

A significant finding of the research is the fact that a majority of our respondents proved their agency in choosing Sweden as a country of application for asylum. As reasons of their decisions they stated the rule of law, the quality of life, safety and freedoms including freedom of religion, the high quality of education, social benefits and/or thriving economy. Their decision to go to Sweden was often preceded by a basic or more detailed research about the country, like for the man from Syria:

First, I checked the situation here in Sweden. Then I decided to come here. No, I have chosen Sweden because I knew from a long time that Sweden is an excellent country and I wanted to come here because I needed to be in a country to continue my life in a beneficial way (Syrian man, Age group 27-50, Nr.4).

One woman did not limit her research only to the Internet, but even contacted lawyers in order to inquire about the best country for refugees in terms of fast acquisition of citizenship:

I consulted lawyers, all opinions were saying that Sweden, Holland, and Norway were the best options for citizenship, and in truth I wanted to drop all the concerns and responsibilities that related to Syrian citizenship. I was feeling as though it's insulting me as a human, I was humiliated only because I'm carrying this passport. My aim was to get citizenship quickly, and Sweden was a good option. I didn't like Holland, I've read a lot about the rules in there, and Holland had these drugs issues which is a terrifying thing to me. The population of Norway is 5 million, which I also felt was terrifying. So, I felt Sweden would be the best option. I also noticed that marriage rates are high there. Maybe the factors of me choosing Sweden would be a bit weird, but I chose it because it is quieter than Holland, the population is more than Norway, marriage rates are high, as well as for the citizenship and the permanent residency (Syrian woman, Age group 27-50, Nr.5).

The research done by another Syrian woman led her to very similar conclusions:

I did my research while I was at a camp, I looked for the best European country, I searched almost all European countries... and I found out that Sweden is the best [...] because Sweden values humans the most and it has more freedom than other countries, it didn't have troubles the way Hungary did... I mean when the refugees were abused, finally, Sweden gives citizenship, even socially I read that Sweden was the best (Syrian woman, Age group 27-50, Nr.33).

In fact, in our interviews citizenship was the most often recalled reason for choosing Sweden as the country of asylum. This woman knew that only citizenship could guarantee her safety and a future "I want to have a place to live, and not to move again and again. I am going to start from zero and I do want to move after that, and have to start all over again" (Syrian woman, Age group 27-50, Nr.29).

The respondents seldom pointed out a particular, single reason for choosing Sweden. In a majority of the cases it was a combination of factors, both independent ones listed above and dependent ones, like travelling, studying or working experience from the past, having a family, friends or a network of contacts that made them take the path to Sweden. A Syrian woman said she knew Sweden before the war broke out: "I chose Sweden because in 2010 even before the war, I came for tourist purposes to Sweden via visa. So, I found a lot positive points.

It's a very safe country. It's culturally rich. And extra, I have had a family here for a long time” (Syrian woman, Age group 27-50, Nr.12).

The agency includes the possibility of changing the decision (Marshall 2005), which was also visible in respondents' experiences. For a Syrian man the first destination was Austria, but then he realised Sweden would offer him better opportunities:

My original destination was Austria but I tried, and then it didn't work. My family stayed in Syria and sold our apartment to emigrate. I left Syria alone and then I ended up in Sweden. [...] Because it's a peaceful country and has a good natural environment. The citizenship is good also, and it's also good for study. A lot of people come here to live. I also like the society. (Syrian man, Age group 18-26, Nr.17)

A majority of respondents distinguished Sweden from other European and the EU countries, and it was found that Sweden was better in terms of the quality of living. A man when asked “Why did you choose Sweden and did not choose another European country?, responded: “Because I think Swedish laws are stronger and more appropriate for living and not having corruption” (Syrian man, Age group 27-50, Nr.6).

Although the decisions to come to Sweden based on willingness to join family do not predominate, they also cannot be ignored. One woman expressed her fear of loneliness which influenced her decision on taking the course on Sweden:

I came to Sweden because I have family on my mother's side here. They live in xxx in Sweden. They are Assyrians and they have lived here since the 80s so I came here because there are people that make me feel like I have a family. Someone can be around here if I die. Fear of loneliness or expatriation (Syrian woman, Age group 27-50, Nr.24).

A young man knew he had better chances to go somewhere where he had someone to help him: “My final destination was Sweden because I have an uncle here and it's better so he can help me out in the beginning” (Syrian man, Age group 27-50, Nr.14).

Another factor which could influence the decisions of asylum seekers was the initial encouragement of Syrians to come made inadvertently by the SMA. In 2013 the Agency ruled that all Syrian asylum seekers who have come to Sweden will be granted permanent residency in light of the worsening conflict in Syria. Although the target of the decision was Syrians who had already come to Sweden, it attracted newcomers, like this young man: “I knew about Sweden because they wanted Syrians to come here.” However, the main reasons for his decision were the following: “Firstly, to continue my studies, and because Sweden respects Human rights and they offer here a permanent residence, and as a student, I can get more advantages here” (Syrian man, Age group 27-50, Nr.43).

With regard to our Afghani interviewees, they did not particularly distinguish Sweden from other European countries, and their final destination seemed to be more random. One man explained that he wanted to escape to any European country, and arrived in Sweden by following others:

My plan was from the beginning to come to Europe. Whether it was Sweden or Germany, as long as I was in Europe, it was going to be safe for me. From the beginning, Europe was the plan. [...] My friends wanted me to come to Sweden, and Afghani people stick together like that, if one person wants to go, we all go. So we came with them to Sweden (Afghan man, Age group 18-26, Nr.51).

A decision of another Afghani asylum seeker derived from negative experiences with this age assessment in another European country:

My first intention was to stay in Belgium but there, I was going to register myself, but then they asked me some quick questions and put an apparatus in my ear and told me I was over 18. Then I knew I wouldn't get any asylum there because they'd treat me as an adult. With us was another guy who wanted to go to Sweden, so we decided to come with him (Afghan man, Age group 18-26, Nr.48).

For many of our interviewees the decision to come to Sweden was related to their experiences during the journey. The bad treatment by border guards, police, or camp guards forced them to continue their way in finding a safe place to stay:

I crossed and reached different countries. I studied a bit about refugees and how the refugees were supported there. And I saw some shortcomings in these countries and that caused me to go to the next country. So as I was in different camps in different countries, I experienced that the refugees were not protected or taken well care of. And in one of the camps when I was there with my family, my children after two months of journey did not have adequate hygiene after our journey, so my children had gotten some spots on their skin and because of that, all of their clothes and all of our belongings were thrown away by the camp because they thought that there could be some bacteria in my children's clothes. But in return they did not get appropriate clothing, and my 2 year son got an adult garment... That is when I saw that here in these countries that I would not be well taken care of. So that's why I moved on, and at the end I ended up in Sweden and when I saw the situation here, when I saw how I was welcomed and taken care of, I decided to stay here (Afghan man, Age group 27-50, Nr.61).

Our qualitative data proved that many asylum seekers were agents of their life when they decided about going to Sweden and applying for asylum here. Although asylum seekers migrating to Sweden were presented in the media and by government statistics as a 'massive influx of migrants', in fact it was a movement of single individuals who were able to take independent and cautious decisions about their future.

5.2.2 The Asylum Procedure from the Perspective of Asylum Seekers and Refugees

Our interviewees' assessment of the asylum procedure varies depending on their differing experiences. However, two particular variables seem to be significant for the assessment – nationality and the time of arrival in Sweden. Generally, the Syrian respondents made much more positive remarks about the procedure than the ones from Afghanistan and Iraq, which with high likelihood is a result of the special treatment of Syrians in giving them a status of refugee or subsidiary protection. With reference to another important factor – date of arrival, it proved to be relevant whether a person applied for asylum before autumn 2014 (and dealt with the asylum application in the period of a peak of migratory movement to Sweden and Europe) or after that time.

The analysis of interviewees' responses was structured according to chosen topics pertinent to the asylum seeking process from the perspective of a subject of activity, namely the asylum seeker himself/herself. We analysed the experiences and perceptions of the respondents in the asylum procedure beginning with access to and registration of the asylum application, through the access to information (including information about different types of protection), interview, group (family) applications and family reunification procedures, ending with the duration of the procedure. In each of the mentioned components of the procedure we focused on its shortcomings identified by our respondents.

Registration and applying for asylum

The experiences with the registration and submitting the asylum applications were generally positive, although the respondents who arrived in Sweden in 2014 and 2015 complained that the process was very slow:

I told the immigration department that I had a place to stay, however they still made me wait at the expense of someone who has no one to stay with, and we stayed long hours from 9 am to 7 pm to the hour there until we finished all the procedures and took fingerprints (Syrian man, Age group 27-50, Nr.27).

In the majority, our respondents pointed at the crowdedness as the main reason of this situation, without blaming the Migration Agency offices for unpreparedness to deal with the increasing migration:

There was nothing but a crowdedness, meaning early 2015 it was the beginning of crowdedness, as after a month the borders were open and people came in huge numbers, through Austria and Germany, so here it was crowded in terms of getting an appointment and waiting (Syrian man, Age group 27-50, Nr.20).

However, experiences of the asylum seekers proved the incapacity of the institutions to deal with such a large number of asylum applications:

We arrived around noon and we waited until 2:00 am because of crowds. I met an officer of Arabic origin who didn't speak Arabic but spoke English. He said today we don't have interpretation so unfortunately, we can't do the interview today. Wait half an hour while we figure something out. I told him we can do it in English. He said yes (Syrian man, Age group 27-50, Nr.34).

For another respondent, the waiting time was a reason for additional stress:

The application for asylum was not difficult but disappointing, because the proceedings were expected to be quick, but we spent 4 days to apply. Also, regarding the mode of work, I did not feel justice in the way of distribution of people who were waiting for a month and those people who were waiting for three or four months to get a date for the interview. This waiting time caused me stress because my family was in danger and the age of my children was close to the mandatory conscription age. Young people of these ages were vulnerable to recruitment or kidnapping or for many other reasons, as well as some of the decisions were given quickly while I had to wait for ten months (Syrian man, Age group 27-50, Nr.9).

In general, the interviewees did not complain about the format of the asylum application. Only one woman made remarks about it, since she was convinced she didn't fill in a standard application:

After I went to the immigration department in Malmö, I took an application. It was a 4-5 page application, and it [required extensive information such as] my grandfather's information, but afterwards I learned that not all refugees filled in this application. There were a lot of questions like about my primary and secondary schools, my grandfather's name, my father's grandfather. Information I didn't really know. I took this application and wrote all the information, then I registered the asylum application (Syrian woman, Age group 27-50, Nr.5).

Another shortcoming indicated by some of the Syrian interviewees was equal treatment of all asylum seekers from Syria, without any background screenings of any individual at the stage of applying for asylum. This often caused feelings of fear and insecurity among the Syrian refugees:

I think there is a shortcoming of the asylum offices, especially in the first three years, when they accepted all asylum applications and included requests from persons who worked in political security and practiced methods of terrorism, violence, torture and abuse against detainees and demonstrators. Some of the refugees who have personally identified themselves have lodged complaints with which they object to granting asylum to their torturers. Immigration offices subsequently suspended all immigration applications for six months and reviewed previous asylum applications for those who had committed violence and torture and felt that they were not entitled to asylum in another country (Syrian woman, Age group 50+, Nr.28).

Instructions and information availability

With regard to availability of information about the asylum procedures and rights and duties of asylum seekers and refugees, our interviewees were not unanimous in their assessment. Almost all of them were given information when they applied for asylum at the migration offices, although the information was not fully understandable to everyone. An elderly man complained about the poor translation of the instructions:

Regarding these written instructions... in my opinion... first of all, they were given in Swedish and sometimes translated, but... man...the translation is not understood at all... As a man who studied the Arabic language to the extent that I can teach it... whenever I read an Arabic text... translated from Swedish, I can't understand a thing (Syrian man, Age group 50+, Nr.1).

Opinions about bad quality of the translation from Swedish to Arabic were repetitive: "They gave us paper, but the translation to Arabic was the same as reading Swedish, I could not understand it" (Syrian man, Age group 27-50, Nr.44).

The vast majority of our respondents referred to written information about the asylum procedure which led us to an assumption about the scarcity or lack of oral information. However, one early arrival (between 2011 and autumn 2014) from Syria remembered an oral lecture at the migration office which also proved to be incomprehensible: "I remember that after we applied for asylum, they invited us for a lecture and they gave us a lot of information, and I tried to write a lot of this information. They spoke a lot at the conference, but in fact, we did not understand anything" (Syrian woman, Age group 27-50, Nr.25).

According to another woman, also an early arrival, she was given oral instructions, although they were not very detailed:

Initially, there is information given in a certain way. I got verbal and written information. It summarised the asylum law. I didn't have details about my rights, but I know the overall info. I know how to go to school, get financial aid, travel. A very general idea. I was in trouble once for not knowing details (Syrian woman, Age group 27-50, Nr.24).

For a man from Afghanistan, the given information was not sufficient and not very adequate to the stage of the asylum procedure:

At the beginning, I didn't get any information regarding these two statuses of refugee status or subsidiary protection. There was no clear or efficient information to differentiate between these two, and also even later on I didn't know much about them. But now at this point, I know that these are two different types of protection here in Sweden. So there was no face-to-face or oral information given about the process itself. It might happen that they had given some leaflets in writing and I might not have read them, but not any oral information given in our own language and also during the process itself, all the

steps that were included in the process, they would come accordingly, but I did not have much information about the next step, about what's going to happen next (Afghan man, Age group 27-50, Nr.61).

An example of more serious, indirect allegation against the SMA in terms of information availability is not informing asylum seekers about their right to ask for a lawyer: "I did not know that I can ask for a lawyer in my case. Only two days before my first interview I was introduced to him and that was a piece of the information they did not share with me at the beginning" (Afghan man, Age group 18-26, Nr.59).

Another shortcoming with reference to information availability is not considering the special needs of people with low-level or no education. One speaker from Afghanistan, who is illiterate, described the problem very well:

We have problems because of our education as well, we are not educated people so we don't know anything, so it was difficult but they were nice to us, they were not bad to us. The migration officers were very nice; we didn't have a problem with them. The main problem is that we couldn't understand each other (Afghan man, Age group 18-26, Nr.51).

It needs to be underlined that the majority of our respondents found the available information understandable and helpful. They praised the fact they could get the instructions in their native language. According to a man, the instructions given by the Migration Agency helped him to apply for asylum:

Applying was very easy maybe because I had information and I read the instructions very well and executed them. They give you advice and instructions before you enter the department in your mother language. The employees were helping and asking me that if I have any question they could help in whatever language I spoke. Most of them spoke English for example (Syrian man, Age group 50+, Nr.19).

Interview experience

While asked about their interview experience and attitude of interrogators, the interviewees gave divergent responses. In general, the early arrivals tended to be much more satisfied with their interviews and evaluated the behaviour of interrogators positively, whereas opinions of the late comers (those who arrived in Sweden in autumn 2014 and after) depended on the result of the application process and on the behaviour of particular investigators. However, the latter can be mutually correlated – the attitude of interrogators might have influenced the result of the procedure.

A woman who came in 2012 remembered her interview as a positive experience:

I felt that they were professional people in their work. I did not think like I was in an investigation. It was just a question-and-answer like dialogue, and they certainly took into consideration the situation of people if they had any particular needs, situation or *issues* (Syrian woman, Age group 27-50, Nr.2).

A Syrian man who also came in 2012 pointed out the neutrality of interrogators which was good at the beginning but turned out to have a negative impact on the type of residency permit he was granted:

The interrogators were neutral. For them, an issue like the rest of the cases, dealing with us on this basis in a very neutral manner and were not positive or negative, taking things as purely routine procedures without any emotions. They told me that the interrogator could give me residency for 3 or 5 years. I spoke to the head of the centre. He understood that we were a family. I had two children. I had to send them to school and learn Swedish if I decided to settle in this country. Does not fit my marital status. The

head of the centre said to me: Do not worry, we usually give families 5 years' stay and this is common among investigators if people with children take this into account. But in the end, they gave us residence for only 3 years, although the investigator showed us sympathy and cried with us during the process but at the end was neutral and felt that we deserve to stay for 3 years and the minimum that it is entitled to give him (Syrian man, Age group 27-50, Nr.42).

Reflections of other Syrian refugees about the attitude of the investigator confirmed the neutrality as a standard aspect of the procedure:

She was calm and cold and she was polite, but I was very nervous because of the duration of time and because I knew afterwards that they were making sure that I had a residence in Hungary, since I mentioned to her that I studied there in 1986, so they communicated with Hungary to clarify that. I think this procedure is standard, but at the same time, many people got the response for their application very quickly, while I waited for ten months (Syrian man, Age group 27-50, Nr.9).

According to some interviewees, investigators comforted them with welcoming and calming words: "The interview was good and he asked me normal questions. He didn't ask me about the method I took to come here or anything about that and he told that I'm safe now and I need to give my papers in order to be investigated and get into the second interview" (Syrian man, Age group 50+, Nr.19).

Our interviews proved that asylum seekers (now having a status of a refugee or a naturalised citizen) who came to Sweden until autumn 2014 did not complain about the investigators behaviour, but the problems began in 2015, which is related to the peak in migration to the country. Those who arrived in Sweden from autumn 2014 till 2016 often encountered unprepared people who did not show sympathy towards them. A man expressed his disappointment about the lack of experience of his investigator:

In the immigration management, the interviewer in general was inexperienced and only employed for 1-2 months, despite the fact that it's a delicate topic to work in this position. In my interview, there was someone being trained to conduct the interview and there was another person who was examining my interviewer. And because I was Syrian and because there was a specific situation from the UN. Then my subject was insignificant. They don't really care. They asked me in general about my ethnicity but these interviews were unimportant. They didn't ask me about my situation in Syria or any other country (Syrian man, Age group 27-50, Nr.14).

Other respondent from Syria complained about the discriminatory and threatening behaviour of an investigator who interviewed him and his family:

He was speaking to the children and he scared them. He told them 'who told you that we are going to give you residency? We will send you back to Syria.' [...] My daughter told him 'we will throw ourselves in the sea to avoid going back to Syria' and when I saw what was happening, I said 'if you are not going to give us a residency, then don't.' It was the biggest mistake to come to Sweden (Syrian man, Age group 27-50, Nr.15).

The man also expressed his mistrustfulness of the translator:

The Iraqi translator also played a role because he was closer to the investigator. I told him 'It is my mistake to come to Sweden. In my opinion and in the opinion of 80% of the

Syrians here, Sweden and Europe in general are a big lie that we lived (Syrian man, Age group 27-50, Nr.15).

Complaints about the quality of interpreting services were reiterated by an asylum seeker from Afghanistan:

All the time, we had problems with the translator, we said one thing and they wrote another thing, I talked with my lawyer and I told her that I want to talk with them and I want to tell them that it's not right because my wife has problems with language, her accent is different, but the lawyer said immigration did their job and it's difficult now (Afghan man, Age group 27-50, Nr.50).

Nonetheless, except from the latter statements there were no more complaints about the interpreters' role or behaviour during the interviews.

The refugees and asylum seekers' stories made evident that the personal attitude of a particular investigator left a psychological mark on them, and was meaningful for dealing with the procedure and waiting for the decision. A respondent who came in 2015 recalled she felt she was treated like a criminal by her investigator: "The first investigator woman was normal, the second one was unfriendly... I don't know... I may have had the wrong impression, but I felt she was cruel, as if she was interrogating a criminal" (Syrian woman, Age group 27-50, Nr.33).

An asylum seeker from Iraq who arrived in 2015 blamed the investigator for the rejection of his asylum application: "I felt the officer was racist or moody because of the rejection reasons he gives me even my lawyer was not convinced by these reasons". (Iraqi man, Age group 50+, Nr.45).

Another woman from Syria who came in 2016 remembered she felt scared during the interview because of the interrogatory attitude of the investigator:

They asked us about everything and it was annoying. She said I want to start with you. First, she said how did you make your passport? I told her I went to the migration and passport management in Baramkeh/ Damascus. She said where's that area? So I told her its close from SANA news and the main bridge. So, she said, is it in Israel? I looked at her and obviously she was provoking me. I answered her question and she continued saying: 'Why are you confounded while you're talking?' I told her I'm not confounded but your question should be clear! [...] She was provoking me. Because I learned that the investigator should provoke us to see if we're scared. But I was scared anyway. I didn't know what I should say. I told her the truth (Syrian woman, Age group 27-50, Nr.10).

Duration of the procedure

The interviews reiterated the fact known from secondary sources, namely that the duration of the asylum procedure was directly related with numbers of people seeking asylum in Sweden. For the early arrivals it was no longer than 3 months, and the fastest decision was issued in 20 days. The late comers had to wait for 10 to 27 months until they got the first instance decision – the one issued by the Swedish Migration Agency.

To see the difference in duration of the application processing and its impact on the evaluation of the whole procedure one can refer to the man who arrived in 2012: "I went to the Asylum Office in Solna. I was impressed with the system and the treatment because it was good. After applying, in one month I was granted the residence permit" (Syrian man, Age group 27-50, Nr.4).

The respondents who had to wait for the decision 10 months or longer expressed their disappointment with the duration of the process. This caused an additional stress for a woman: “We were very disappointed because it’s taken such a long time. I am depressed now and feel very bad. I’m not happy” (Afghan woman, Age group 27-50, Nr.58).

A respondent who came in late 2014 expressed her frustration about the waiting time:

I was very frustrated because I applied for asylum in December 2014, and my next interview was after six months, and after that I waited around a year and nine months to get the residence permit. During that time, every time I communicated with [the Migration Agency] they used to tell me wait, and they changed the responsible person for my case. It was a challenging situation, and I had to do surgery which caused me even more stress (Syrian woman, Age group 27-50– Nr.21).

An often repeated complaint by our respondents was the fact that they had not been given any information about the anticipated period of processing of their application. With regards to the duration of the procedure they learned from other refugees and asylum seekers what only deepened the discrepancy between their expectations and reality:

People told me when I got here that it would take 3 months maximum. After one year we got a letter for an interview, and after that interview, after 6 months, we got another letter for another interview. After 2 years, we got a letter saying that we could only stay for 13 months (Afghan man, Age group 50+, Nr.60).

With respect to the duration of the asylum procedure, one factor that prolonged the whole process was a group (family) application. According to statements of the respondents, if all members of the family apply for asylum in Sweden their files are joined so their applications could be considered together. However, in random cases this caused unexpected prolongation of the procedure, sometimes followed by a negative decision. The mentioned cases refer to situations of different nationalities of the spouses, or a separation or a divorce during the procedure. Different nationality (including the potential right to a particular nationality) appeared to be an obstacle in receiving the residency permit for this man:

My wife is xxx [a national of a state other than Syria]. [...] They told me that my children have the rights of xxx [a state other than Syria] citizenship. I said ‘Right they do have the right in general as they do also have the right to get a residency because they are Syrians too’ and they confirmed that, and I additionally told them that ‘I didn't even get my residency’ and their answer was ‘Your wife is xxx [a national of a state other than Syria]’. I said ‘In my case it is possible that the residency process would take a while because this is a special situation’ they confirmed this too, and I continued saying that in order for the father to ask for his child the citizenship the child should be born in xxx [a country other than Syria] and the father needs to be a regular residency holder in xxx [a country other than Syria]. Every child born after 2012 doesn't have the right to get a citizenship but before 2012 they had the right. And I also proved to them that my children are Syrians because my children entered xxx [a country other than Syria] with a visa. It is not reasonable that if you are Syrian and you enter Syria with a visa, this is impossible (Syrian man, Age group 27-50, Nr.11).

In another case of transnational marriage, a woman filed a divorce application after she arrived in Sweden together with her husband and children which caused a delay in processing her asylum application: “The investigator told me she could not forward my papers until my lawyer processed them. I told her that it was no problem. As soon as my divorce paper came out, she immediately gave me residence after one month” (Syrian woman, Age group 27-50, Nr.13).

Family re-unification

With the Temporary Act introduced in 2016, people who are given refugee status, i.e. a three-year residence permit, have the right to be reunited with their nuclear family. However, if they wish to avoid proving they have sufficient income and suitable housing they must apply within three months of obtaining a permit.

People assessed as having subsidiary protection status (13-month permit followed by a 2 year permit if protection grounds remain) have very limited possibilities for family reunification. Almost all of our respondents were aware of the family re-unification regulations, and the majority of them were discouraged to invite any of their family members due to the anticipated rejection of their application. A man admitted the latter: “I heard that I could have been reunited with my mother, but I heard that her procedures are complicated, so I did not do it” (Syrian man, Age group 27-50, Nr.27).

This man actually tried to bring her parents, but her application was rejected: “Yes, I tried to re-unite with my father and mother straight after I got my residential permit, and as I knew I only have 3 months to apply for reunion, but it was rejected” (Syrian man, Age group 27-50, Nr.20).

Only two people out of our sixty one respondents succeeded in bringing a member of their family to Sweden. One was a Syrian woman who finally, after 10 months, reunited with her son: “It was hard because I told them from the beginning that my son is 4-5 years old and he can't live without me. It took 10 months to get him here. They used to bring elderly people here in a couple of months. He stayed with my family in Lebanon” (Syrian woman, Age group 27-50, Nr.24).

The other was a man from Syria, who complained about scarcity of clear information about the family reunification procedure:

I think that the information needs to be updated because many people faced problems and complications because of the way the information was presented since many people cannot understand the legal language. For example, a refugee has the right for family reunification within three months, after that period, the manner or circumstances changes and the living place requirement will be added to the application. Many people did not know that; thus, they exceeded the three months, and their case became complicated (Syrian man, Age group 27-50, Nr.9).

He also criticized separation of the asylum procedure from the family re-unification procedure, despite cases when they should be handled together:

I think that the Migration Agency should follow-up with individuals after obtaining residence, especially families or persons who are dependents of the refugee. The director of the immigration office in Malmö told me that; ‘our subject/job is the refugee case itself, while the rest are services that the refugee can apply or ask for, and I do not interfere in your wife’s and your children’s cases, I only took the decision for your case as a refugee (Syrian man, Age group 27-50, Nr.9).

Differentiation between asylum seekers from Syria and other countries

Another finding of the research is that the outcome of the asylum application was related to the nationality of the asylum seeker. Negative experiences prevailed for asylum seekers of nationality other than Syrian (Afghani and Iraqi in our research), whereas the majority of our Syrian respondents received a positive decision (the interviews were conducted also with asylum seekers who have not received the decision yet). The preferential treatment of Syrian asylum seekers is not hidden by the SMA. According to the Migration Agency, the recognition rate for Syrians for 2018 at first instance was 98%. For instance, 3,106 Syrians were granted protection, which in the clear majority of cases was subsidiary protection (Williams and

Hallsted, 2018). The above mentioned peculiarity was reflected in the words of our respondents, both from Syria and two other countries. As a Syrian noticed: “They gave Syrians priority to apply for asylum over other nationalities because we had special conditions. Eventually, we were very comfortable and they provided everything” (Syrian woman, Age group 27-50, Nr.30).

Another respondent from Syria even decided to come to Sweden because of the preferential treatment of his country nationals: “Before I came to Sweden, I knew from news and friends that Sweden gave residence permits, and that Syrians do not get rejected, but get permanent residency status” (Syrian man, Age group 27-50, Nr.27).

A respondent said he was shocked when his asylum application was rejected which mirrored his assumption of preferential treatment: “All Syrians get approved applications. There is a section in a political decree from the EU that says the Syrians can be granted residency but my wife is xxx [a national of country other than Syria]” (Syrian man, Age group 27-50, Nr.11).

However, for this Afghani man the preferential treatment of Syrians meant discrimination of other countries nationals:

I also noticed that they differentiated between two types of people here. Their high priority was the refugees from Syria, even healthy male refugees from Syria were taken well care of compared to Afghan family. That made me feel very bad and discriminated. And that caused me to get into a conflict with the migration officers (Afghan man, Age group 27-50, Nr.61).

Another differentiation of asylum seekers was related to the time of arrival – those who applied after 24 November 2015 would be covered by the new Temporary Act and a possibility of receiving temporary residency permit. A woman admitted the latter: “After one week we would have been under the temporary residence permit law. [Interviewer: So, you came before 24 November?]. Yes, therefore we were pleased that we were able to get the permanent t residence permit” (Syrian woman, Age group 18-26, Nr.31).

On the other hand, there were people who arrived from Syria after 24 November 2015, like a man from Syria who recalled his disappointment with the new law and the expectation to be treated preferentially: “I had the temporary permit one year and a month, and that affected me psychologically when you arrive. I arrived before everyone else, and everyone got a permanent residence permit and I got a temporary one, this also affects you mentally” (Syrian man, Age group 27-50, Nr.44).

5.2.3 Special Needs of Vulnerable Groups and Obstacles in Meeting them

The needs of vulnerable asylum seekers are guaranteed by the 1994 Law on the Reception of Asylum Seekers, although the act does not define vulnerability of people seeking protection. However, the Swedish Migration Agency has set out standards for the reception of vulnerable asylum seekers, mainly including children, women, disabled persons, and elderly, persons with mental disorders or serious illnesses, and persons vulnerable to harassment or exploitation due to sexual orientation or gender identity. It was the Swedish government who did not find it necessary to identify vulnerable asylum seekers, although such an obligation derived from the Asylum Procedures Reception Conditions Directives transposed into the Swedish law (Shakra, Wirman, Szalanska, Cetrez, 2018).

According to our empirical data analysis, the mentioned institutional conflict about defining and identifying vulnerability of asylum seekers affected the latter in a way that their needs were not met appropriately. We identified the following vulnerabilities amongst our interviewees: youngsters (under 18 year-old when applying for asylum), elderly people (above 65 years old), women, members of ethnic minorities, people with chronic illnesses and illiterate people. The majority of the vulnerable respondents did not experience any special treatment,

although some of them also tried to claim their rights. A man said: “I didn’t feel that I was treated in a special way just for being elderly... [...] At that time, I didn’t know that elderly people have privileges” (Syrian man, Age group 50+, Nr.1).

A woman from Syria complained about not being respected due to her gender vulnerability:

She [the migration officer] enforced the law in a very stupid way. She arranged an independent accommodation in sleeping but with 50 young men in the same camp where I will share a toilet, the bathroom and the kitchen with them. It’s fair to put us all in the same camp because we are all singles, but due to our origins which are from the Middle East, it’s not fair to put one girl with 50 boys to share the same bathroom. The bathrooms didn’t even have locks. The camp was like a tourist resort but the tourists and the refugees don’t have the same motives to live in it. It’s a whole culturally different subject, it diverges in respect and privacy. If the door of the bathroom is a bit short from its down side, those who come from Middle East start to peak on you. In a tourist resort people wear bikinis. The culture is different and after spending three days in that accommodation I made a very serious suicide attempt and the ambulance team got me at the last moment (Syrian woman, Age group 27-50, Nr.5).

A member of an ethnic minority from Syria told us about not considering his needs as a vulnerable asylum seeker which exposed him to danger in the camp: “We fled because of being a minority and we lived here with the people that we fled from”. (Syrian man, Age group 27-50, Nr.36).

He acknowledged he experienced harassment and had to fight with other asylum seeker, because, as he explained:

The ISIS came here. They told us that we were fighting in Syria for you, why do you run? Many religious conversations. No one accepts each other and so we had fights. Many people have fights, so they move them to houses so they thought we are from these people. So they did not care about us. We were three from xxx [village name in Syria]. We were three and we wanted to stay together as we can understand each other (Syrian man, Age group 27-50, Nr.36).

The young interviewees, who were under 18 year-old when they applied for asylum, also reflected about not considering their needs as minors. An Afghan female expressed her soreness about her treatment: “They didn’t really care, I was in that interview and I told them about my situation and problems but they didn’t care and they wanted me to leave” (Afghan woman, Age group 18-26, Nr.57).

A significant number of complaints were related to the fact that the Migration Agency did not take into consideration chronic illness or other special health conditions. A woman from Afghanistan struggled with non-recognition of her need of medicines:

I have a lot of problems, I’m worried all the time, back and forth they were asking a lot of questions and asking me what I needed and I told them I needed my medicine but they wrote down that I don’t have any problems and I’m only here to get help because of my illness. But I was asking if they could get me my medicine because I was sick, I had cancer in Turkey and Iran too. But they told me I don’t have any difficult problems and I was only here for my health (Afghan woman, Age group 27-50, Nr.53).

Another female respondent from Syria complained about not considering the special needs of her sick daughter in allotting asylum seekers to specific locations: “My daughter goes into convulsions, so she needs an ambulance from time to time, and when I first arrived, I was sent to a village, where you needed an hour to get to the nearest health care centre, so they didn’t take into consideration the status of a sick child” (Syrian woman, Age group 27-50, Nr.33).

One possible obstacle to meeting the needs of some vulnerable asylum seekers could be the main principle in Sweden to treat everyone equally. Such a suggestion was made indirectly by a respondent:

They were helping the people. For women or men, everyone was treated as the same. Everyone was standing in the same line. Everyone was taking his number in the line and waiting for their turn. Maybe they were helping those who were handicapped. They were giving them a chair. It's possible because I saw some cases, but everyone was sticking to his turn and they process them (Syrian man, Age group 50+, Nr.19).

On the other hand, the difficulty with identification of vulnerable asylum seekers and their needs also cannot be underestimated.

5.2.4 Shortcomings in Access to Legal Counselling

According to the asylum law in Sweden, free legal assistance is provided to asylum seekers throughout the regular procedure, at all appeal levels, and is funded by the state budget (Williams and Hallsted, 2018). Our empirical data showed that a majority of the interviewees knew about their right to free legal assistance, but did not express their need to access it. As one of the respondents added, the Migration Agency informed him about such a possibility: "The SMA told us if the person was needed then he would hire a lawyer, but for me, I did not need it" (Syrian man, Age group 27-50, Nr.3).

One woman regretted that she did not have a lawyer, although she needed legal advice in order to handle the problem of her sick daughter. She admitted she had to deal with everything on her own: "I didn't know at first, but after a while, I knew how to send emails and contact organisations" (Syrian woman, Age group 27-50, Nr.33).

Another difficulty was related to changing a lawyer, regardless of the reason for doing it. One respondent complained that he had to wait 11 months to be assigned a new lawyer to his case:

First, a lawyer called xxx [name of the lawyer] had been procured but then she quit. A new lawyer started to handle my case. I spent 11 months without an officer. I don't know, maybe my case was like this by accident. It is possible it was by accident or is there something political between Morocco and Sweden. I doubt so, but why (Syrian man, Age group 27-50, Nr.11).

In addition, the empirical data analysis revealed shortcomings in the quality of the legal counselling. A majority of our respondents, who had received legal assistance, were not satisfied with it and counted it as a reason for their dissatisfaction, because they pointed out a lack of commitment by the assigned lawyer to their case:

"I know I have a lawyer, I sent him messages, I had called him, but he didn't respond. [...] I think he is ignoring us. We went to Stockholm to contact him, but he told us that he wasn't just our lawyer, that he was the lawyer of a thousand people, and that it didn't matter if he didn't answer one of our questions" (Afghan woman, Age group 27-50, Nr.52).

"I didn't get any help from a lawyer. The one we were assigned was very careless and even with the interpreter, I felt that he didn't pass on what I wanted to say to my lawyer about my case" (Afghan woman, Age group 18-26, Nr.57).

"We had a lawyer from the Migration Agency and he was from their side and now he does not do anything for us, now he is not even answering us" (Afghan woman, Age group 18-26, Nr.55).

Last but not least, none of our speakers received any legal assistance in the asylum procedure from an NGO. It indicates that either the scope of the legal support offered by NGOs is limited, or that there are difficulties in reaching NGOs by asylum seekers who are in a need of such help. The following statement of one asylum seeker would prove the latter: “I searched for legal agencies supporting refugees, but it was very limited. I also wrote to the Swedish Red Cross and some agencies, but the responses were limited or none” (Syrian man, Age group 27-50, Nr.9).

Although it does not mean that the NGOs did not play a role, it should be noted that some NGOs have cut back their services to asylum seekers while others, such as the Swedish Refugee Advice Centre for refugees and asylum seekers, have expanded their services throughout Sweden. The Centre is run by Save the Children, Sweden Caritas, the Church of Sweden and the Diocese of Stockholm. The Swedish Red Cross offers legal support through a hotline as well as by appointment, and its lawyers can act as legal counsel. Moreover, the Red Cross prioritises cases concerning family reunification, persecution due to risk of torture and gender-based persecution (Williams and Hallsted, 2018).

5.2.5 Experience with Actors Involved in the Protection of Asylum Seekers

The respondents also had a chance to reflect on their experiences with various actors they met in the asylum procedure, such as the SMA offices and its employees, police officers, non-governmental organisations as well as local people including relatives or acquaintances of asylum seekers who had settled in Sweden.

In general, the work of SMA and migration officers was evaluated well by our respondents. The two most often recalled shortcomings were bureaucracy together with the slowness of the procedure and problems with dealing with extraordinary cases, including the needs of vulnerable asylum seekers. Another issue was related to the attitude of migration officers/interrogators during the interview, which is depicted in the above paragraphs.

One respondent from Syria expressed a lot of resentment towards the Migration Agency, since he felt that the treatment of asylum seekers and their cases was discretionary or random, despite the fact that they should have been following fair rules:

The application for asylum was not difficult but disappointing, because the proceedings were expected to be quick, but we spent four days in applying. Also, regarding the mode of work, I did not feel justice in the way of distribution of people who were waiting for a month and those people who were waiting for three or four months to get a date for the interview. This waiting time caused me stress because my family was in danger and the age of my children was close to the mandatory conscription age. Young people in these pages were vulnerable to recruitment or kidnapping or for many other reasons, as well as some of the decisions were made quickly while I had to wait for ten months (Syrian man, Age group 27-50, Nr.9).

In addition, he blamed the lack of experience of the Agency employees for his troubles:

They had inexperienced employees. If I really met with a real immigration department employee, he would have sorted me out in a good way and I wouldn't have had all these troubles. But because they have inexperienced employees in handling asylum files, they weren't sorting the cases right. So the problem is theirs, not mine, meaning an administrative problem (Syrian man, Age group 27-50, Nr.9).

Lack of experience of the Migration Agency employees was often repeated as a serious shortcoming of the procedure. It was evident in the statement of the following woman:

I blame the migration management for destroying the lives of many people including my husband's. He lost patience and went back to Syria. After one year, the migration management employed people that are not experienced enough to review our files. They took decisions about people's fate without taking anything into consideration. The officer who made us wait was employed for two years, then after one year another officer came to us personally in the weekend after he had finished work just to let us know that our asylum application was accepted, and he wanted to give us the good news (Syrian woman, Age group 27-50, Nr.10).

There were also cases of losing documents attached to the asylum seekers' files by the Migration Agency employees. For instance a woman from Afghanistan expressed her disappointment with the migration officers:

They were not kind, very cold. They ignored a lot, and I didn't have a good experience with the migration officers. They were so careless, that I sent them all our documents before our interview so they could read up on our situation, but on the day of the interview, they told us they had seen we had left out some documents, but they had lost the documents. I was angry because this was my whole life. But my husband had a copy of one of the papers, but everything else, they lost (Afghan woman, Age group 27-50, Nr.52).

Another issue revealed in the empirical research was not considering requests of asylum seekers with regards to the place of residence. If asylum seekers request accommodation from the Migration Agency, they are randomly sent to reception centres in different regions and communities in Sweden and sometimes they are even forced to relocate. It was particularly difficult for the following woman:

Unfortunately, now I'm away from family. [...] The thing that bothered me and actually caused me frustration is they sent me away from my family and as I mentioned, my kids need family. I stayed in XXX at my sister's for three months and she has two kids and I have three so I had to move out. So, they told me there's no residence in XXX or in the suburbs so we can come and visit at weekends. They gave me an option in Falun, I said it's too far away. When I rejected a lot, and came back after three days so they said Boden. So, I had to compromise and it's difficult and last New Year I had to travel 17 hours by train to see my family. After 6 months which is a hard trip but the kids need it. They're very tired and they ask me why don't we live in XXX. They need family I think due to the conditions they need someone to replace their father like an aunt. I don't know why it took so long. [...] I feel like they didn't cooperate. They wanted to send me to Falun and I said no, so then they sent me off to another Swedish town which is much further. I took into consideration that there's housing issues in XXX, but they could have sent me to a nearby village, but no they sent me off to this town. It's so far. This is tiring for me and the kids (Syrian woman, Age group 27-50, Nr.23).

Although the reception conditions will be discussed in the next RESPOND project report, here we would like to depict the consequences of the loss of right to accommodation and daily allowance for asylum seekers. Following an amendment to the Reception of Asylum Seekers Act (LMA) some applicants no longer have the right to reception conditions. Applicants who have received a decision on refusal of entry or deportation which can no longer be appealed, or whose period for voluntary return has ended, lose their right to reception conditions i.e. the right to a daily allowance and accommodation provided by the Migration Agency. If they refuse to leave their accommodation at that point, they may be forcibly removed and be subject to

criminal sanctions (Williams and Hallsted, 2018). The mentioned circumstances led the Afghan woman to the verge of existence:

We do not get any benefits, not even 1 Krona, they have kicked us out of the apartment, the immigration officers came and threw away all of our belongings outside the flat, and they said leave the flat. [...] We eat biscuits, just simple things to live, and (participant crying) we don't have anything to eat. People are helping us for 20 Krona or 30 Krona for food. I am a human being, don't I need any help or any food or any place to live? They said, you don't have children, so you are not allowed to live over here, you don't need help. I have been to the Red Cross but nobody helped. From immigration, the woman came inside my apartment and threw away all of my stuff and said you are not allowed to live in Sweden. You have to leave as soon as possible because you don't have children, we are not helping you (Afghan woman, Age group 27-50, Nr.54).

In situations similar to that depicted above, the rejected asylum seekers can count only on non-institutional support provided by their relatives and acquaintances or local people: "Now there is a woman who is a teacher for my husband, she is Swedish, She gave us a very small room, she said you can stay here if you want. We don't have any money, any place to live, it is very difficult" (Afghan woman, Age group 27-50, Nr.54).

It appears that in the period after arrival in Sweden but before issuing the decision for their asylum application some of our respondents used the support of their relatives, who provided them with accommodation mainly from their relatives in the country:

"I lived with my aunt for five months" (Syrian woman, Age group 27-50, Nr.2),

"I was staying with my family" (Syrian woman, Age group 27-50– Nr.21),

"I stayed in XXX at my sister's for three months" (Syrian woman, Age group 27-50, Nr.23),

"I lived a while with my brother and then I stayed in a camp" (Syrian man, Age group 27-50, Nr.20).

In general, emergency care provided by the Swedish Migration Agency and migration officers was evaluated well by our respondents. Nevertheless, if someone had a possibility to get support from relatives, friends or local people, the person used this opportunity, often in the first place.

It also turned out that the familial help often only complemented the one provided by the state: "For financial aid, it was the Swedish government, for support such as finding accommodation and transportation was my brother and friends, but economic needs it was the Swedish government" (Syrian man, Age group 27-50, Nr.20).

Another respondent told us a story which proves the complementary nature of the help:

We stayed in a house without the help of the migrant office. My son used to provide and look after our needs... He used to provide us and pay without the help of the migrant office. The government provided us with a house taking into account that my daughter had a job... so, she was allowed to be provided with a house by the government, and I rented a room from her (Syrian man, Age group 50+, Nr.1).

The support provided to the asylum seekers by the local people cannot be underestimated. Sometimes the help was basic, like showing the right direction: "I was guided by these people to the migration office" (Afghan man, Age group 18-26, Nr.48).

Other times the support was much more significant, since it could substitute legal counselling: "There was a man, his name was xxx, he was helping us and he is still helping us, like a family

friend, he was helping to appeal. Maybe he works in the Red Cross, he is helping all Afghan people. He is not a lawyer” (Afghan woman, Age group 27-50, Nr.54).

Finally, the empirical data analysis brought to light a serious gap in the asylum procedure in Sweden in terms of the actors involved, namely a very limited role for NGOs. As mentioned before, the NGOs in Sweden tend to prioritise cases of asylum seekers in order to support those who are in a particular need. Although the latter statement explains why the majority, if not all of our interviewees were not approached by NGO’s during their asylum procedure, it does not justify their inaccessibility for those who sought support: “I searched for legal agencies supporting refugees, but it was very limited. I also wrote to the Swedish Red Cross and some agencies, but the responses were limited or none” (Syrian man, Age group 27-50, Nr.9).

5.2.6 Conclusions and Recommendation of the Microanalysis

With respect to the micro-level data, they reflect the general situation of protection regime in Sweden and its developments. The workload of the SMA in 2015 and 2016 was reflected in our respondents’ negative experiences in contact with the Agency employees and case investigators whom they encountered during their asylum procedures. Skyrocketing number of asylum applications in the mentioned period caused problems with access and quality of legal counselling for those in need. Although the majority of our respondents did not need any legal support, those who did encountered problems either in finding it or benefiting from it on a satisfactory level.

Another issue stemmed from the differential treatment of Syrian asylum seekers in comparison to other nationalities. Even though it was planned as a facilitating action, it caused automatic expectations of Syrians to be treated in a different and special way and might be a cause of resentments in cases when those expectations were not met. It was also perceived negatively by other nationals who felt discriminated by not being given the same rights as Syrians.

The last observation is related to identification of members of vulnerable groups. The standards set out by the SMA list the criteria of vulnerability (including children, women, disabled persons, elderly, persons with mental disorders or serious illnesses, persons vulnerable to harassment or exploitation due to sexual orientation or gender identity or belonging to ethnic minority) but the process of identification of vulnerable asylum seekers sometimes fails. It was found out that especially old age, illnesses and belonging to ethnic or religious minority in some cases were not taken into consideration by the SMA in accommodation assignment during the asylum procedure.

To conclude, we recommend the following actions to be taken by the Swedish government and SMA:

- Determining the specific standards for identification, interviewing and accommodation of vulnerable asylum seekers.
- Improving access to legal counselling, especially hiring new lawyers specialized in asylum law who could work only (or mainly) with asylum seekers.

6. Examples of positive/best national practices

The so-called 2015 crisis has contributed to a dramatic change in Sweden's asylum policy from one of the most generous and friendly policies in Europe to one of the restrictive, particularly in relation to the possibility of family reunification (EMN, 2017, p 20). However, many positive practices can still be identified and learnt about and can be summarised as follows:

1. The possibility for study residence permits in accordance with the Act on Upper Secondary School Education for the young asylum seekers whose asylum claims were denied. This is the category which the unduly long process of handling their asylum applications played the decisive role in determination of accepting or rejection their asylum applications. The Swedish Red Cross agrees that there are many identified lacunas in the Act; however, this does not mean its complete rejection as a solution. The Secretary General of the Swedish Red Cross Martin Ernlöv wrote:

“The proposed Bill has many lacunas, many arguments against the structure of the Act may have their points, however to completely reject it in the current reality in Sweden, would be undignified.”

“No one should be expelled to Afghanistan for violence - not adopting the act on residence permits for upper secondary education would be unworthy to consider” adds the Secretary-General of Swedish Red Cross (Ernlöv, 2018).⁷

During a limited time window between 1 July 2018 and 30 September 2018 the SMA received 11,790 applications in total under this act. By mid-June 2019 about 10,000 (85%) of these cases had been decided, and about 7,000 have been granted residency and 3,000 have been rejected (Lansstyrelsen 2019, p 7). At the end of the day, it can be said that this Act has given a chance to thousands of youngsters to start a new life and pursue a better education and future career in Sweden avoiding the so-called Dublin precarious journey. This is a journey that many other youngsters have been through as explained in the previous chapter. In addition, it can be said that this Act has also contributed to shouldering the burden of dealing with the humanitarian and European dilemmas arising from failed asylum claims and deficiencies of the protection regime's capacity to respond to such unprecedented asylum influx.

2. The new possibility for family reunification for those with subsidiary protection status in accordance with the extension of the Temporary Act was recognized in Sweden as a positive initiative at the end of the day. This is despite the fact that the extension of the Temporary Act has also received a number of harsh comments and criticism because of its structure, the articles' uncertainty as well as its temporary character. However, it can be concluded that the extension of this Act has contributed to restoring one of the most fundamental human rights, which is the right to family life.

A Swedish lawyer, specialized in migration and refugee law and human rights, (SWE_190215_Meso_No 4) described how reality would have continued without such legal changes. She described the level of pressure and stress that her clients experienced (whose status was subsidiary protection) to find a solution to be reunited with their family members. She compared their experience of trying to find a permanent job as a way to change their status to a permanent one in order to reunite with their family members with the experience of taking a risk and dealing with smugglers to bring their families to safe countries.

“As a lawyer today, we speak about the asylum case, but we also speak about the work permit [...] the thing that we hear quite a lot is that people pay their own taxes to the tax

⁷ The author's translation

authority [*Skatteverket*]. The tax should be paid by the employers. They (employers) do pay them and they get that back in cash (from the refugees). So they pay basically the same amount as if they have come with smugglers as an asylum seeker. Instead, they pay that in to the system in Sweden for four years until they get their permanent residency. We should not forget that Sweden is one of the hardest countries to find a job in because you need to speak Swedish fluently and of course there is basically no work. So, they try to create a job.” (SWE_190215_Meso_No 4).

The humanitarian negative consequences in the initial Temporary Act of depriving the subsidiary protection beneficiaries from the right of family reunification have been recognized by almost all the actors involved in the asylum process including even the Swedish government. The Swedish Prime Minister was very clear concerning the importance of this recognition during his speech to the Swedish Parliament while he was delivering the government’s declaration. He called this legal change to permit the right for family reunification for this category of protection beneficiaries as a humanitarian reform and recognized the link between good integration and the guarantee of this right when he said:

“That the subsidiary protection beneficiaries and refugees get the same right in Sweden to be reunited with children, partner or parents is a humanitarian reform which contributes eventually to integration” (Regeringen, 2019 b, p. 3)

3. A new Administrative Act (förvaltningslag 2017:900) in relation to case handling and management at the government administrative agencies and the courts, was passed by the Swedish parliament. This act became applicable from 1 July 2018 in Sweden to all the municipalities, county councils and other government agencies including the Migration Agency and the Migration Courts in Sweden. The aim of this new act is to increase and improve legal certainty, objectivity and proportionality by the public authorities in such a way as to empower the individual through smoother and simpler contact with the authorities and faster case handling and management (SMA, 2018 d).

This new Administrative Act can be still perceived as one of the positive practices in Sweden. Although the effectiveness of this act in asylum and migration cases is limited by the limited budget provided to the SMA as it was explained in the previous chapter (see section 5.1.5).

According to Paragraph 6 of this act, the authority must provide the individual with such assistance that enables him or her to take care of their interests. Assistance shall be provided to the extent appropriate in view of the nature of the issue, the individual's need for assistance and the activities of the authority. It should be given without undue delay.

According to paragraph 12 of this act, if a case initiated by an individual party has not been settled in the first instance within six months, the individual party may request in writing that the authority shall decide the case. The Authority shall, within four weeks from the date of such a request, either decide the matter or, in a special decision, reject the request. The rejection of the request can be appealed to the court or the competent administrative authorities, which can review the appeal application.

Paragraph 13 of this act states also that an authority shall use an interpreter and make sure to translate documents if needed in order for the individual to be able to exercise his/her right when the authority has contact with someone who has not mastered Swedish. An authority must, under the same conditions, use an interpreter and make the content of documents available when it has contact with someone who has a disability that severely limits the ability to see, hear or speak.

4. It can be noted that Swedish migration policy has moved from the position of a very pro-child one in protection related matters after the introduction of the Temporary Act and its extension as is explained above (see sections 5.1.1 and 5.1.2). However, the Swedish Migration laws are still pro-child in many aspects as follows:

For example the Temporary Act itself in 2016 in its article 10 privileged asylum family with children and exempted them from the maintenance requirements in order to apply for family reunification.

The act on upper secondary school education is another example as explained in this section.

The possibility for acquiring citizenship for children and minor teenage refugees in accordance with the Act on Swedish citizenship (2001:82) is also another example. Sweden is one of those EU countries, which still does not require a certain level of knowledge of the Swedish language or Swedish society as a condition to obtain Swedish citizenship. Although there have been demands for legal changes where a certain level of knowledge of the Swedish language could become a condition to acquire permanent residence permit and citizenship (Somnell, 2019). It can be also said that Sweden still has a lenient policy toward granting its citizenship to those who have their habitual residence permanently in Sweden, particularly children and minor teenagers.

For example, Paragraph seven of the Swedish Act on Citizenship states that a child who does not have Swedish citizenship can acquire Swedish citizenship by an application of the person or persons who have the custody of the child, if the child has

1. A permanent residence permit in Sweden; and
2. Habitual residence for three years in Sweden or, if the child is stateless, habitual residence only for two years in Sweden.

5. It can also be noted that the Swedish legislative process has tried to follow a policy in avoiding retroactive application or consequences of any legislative change in relation to the protection related questions. An example can be summarised here as follows:

The updated evaluation of the country of origin's security situation in the instance of Syria is the first example. Sweden (see section 5.1.9) is one of the fastest EU member states to issue a new updated evaluation concerning the improvement of the security situation in certain parts of Syria. This eventually entails a major legal change in the protection needs assessment concerning those who are coming from certain safe parts of Syria. However, this legal change and its consequences have been confined to future Syrian asylum applicants not those who already applied before the new updated evaluation. Therefore, the revocation of protection status declaration may not be implemented because of the improvement in the security situation in Syria for those who sought asylum before this legal change (SMA, 2019 c).

According to the SMA's statistics published on 29 August 2019 about 1300 pending cases for Syrians and more than 26,500 residence permits for Syrians are expected to be extended during the coming three years by the Migration Agency (SMA, 2019 c). In addition, the Syrian asylum seekers have been the biggest group-seeking asylum in Sweden since 2012 where more than 115,000 Syrians have been provided with protection in Sweden. The head of the legal department at the SMA, Fredrik Beijer, provided an overview regarding different questions in relation of the new legal stance and when and whom these legal changes apply to. This interview was published on the official website in Swedish on 29 August 2019 as a part of the Migration Agency's mission to disseminate information related to protection, asylum and migration (SMA, 2019 c). Fredrik Beijer observes the following:

“These are not affected by the new legal stance, but rather this affects only new applicants for asylum. Those who are already here in Sweden and who have received protection status as a refugee or subsidiary protection will retain that status. They do not need to state new reasons for asylum when applying for an extended residence permit, as long as the reasons are the same as before” (SMA, 2019 c).

7. Conclusion

The aim of this report has been to provide an overview of the current Swedish protection regime and the governance policies of it and its developments in institutional, legal, legislative and political levels since 2011. This is eventually to pave the way to present the microanalysis for the experiences and perceptions of the asylum seekers, refugees, beneficiaries of the subsidiary protection and other form of protection in this Swedish asylum regime. In addition, the experiences and perceptions of the key involved actors in the implementation concerning the most critical issues, challenges and lessons are also presented here in the meso analysis.

This conclusion aims to discuss some of the findings in the report in order to reflect on the current governance of the protection regime in Sweden under the enormous political pressure during this extraordinary period and its influence in the principle of legal certainty.

It can be said that changes in the field of migration and asylum laws are more prone and susceptible to the political pressure, developments and fast changes in reality than the other legal fields for instance tax regulation in the European level nowadays. Simultaneously, migration and asylum related matters are some of the most influential factors in the current political development in Europe including Sweden.

The Swedish modern immigration history has witnessed several events which have paved the way for decisive changes in the protection regime and migration policies, particularly since 1980s. For example, the eruption of the Yugoslavian war in 1991 and its negative consequences of ethnic conflicts, cleansing and terror, which lasted for several years, led thousands of asylum seekers to seek refuge in Sweden. Until the late 1980s, the migration policies in Sweden were decided with consensus and were not politicized and polarised matters as they became during 1990s (e.g., Green-Pedersen and Krogstrup, 2008; Borevi and Shakra 2019, p. 11). This led eventually for more restrictive legislative and legal measures taken during the 1990s.

It can also be said that the year 2015 was the beginning of new era in the course of migration and asylum history in the whole European Union and particularly in Sweden. The influence and impact of this unprecedented asylum seekers influx during short period in the fall of 2015 on the Swedish asylum policies have been apparent until today. This impact has not ended with the expiration date of the Temporary Act in July 2019 as it was supposed and expected. In addition, it seems not going to end soon as several indications have suggested this anticipation including the extension of the Temporary Act until July 2021.

These major events within the immigration context have never been separated or far from the political development or vice-versa in Sweden. They have influenced enormously the political landscape in Sweden where one can observe also a parallel growth of anti-migration Populist Party whenever a major event related to immigration and asylum has occurred since 1980s. Sweden witnessed the rise of the far-right, anti-immigration and populist movement in the 1990s that ended up with an anti-immigration and populist party called “New Democracy Party” entered the Swedish Parliament during the electoral period 1991-1994 (Demker, 2013). The revival of this right-wing, anti-immigration and populist sentiment started slowly in 2010 during the election year when a similar party called Sweden Democrats (SD) became represented for the first time in the Swedish Parliament. The seats of this party in the Swedish Parliament kept increasing. Its percentage went up from 5,7 percent in 2010 to 13 percent during the 2014 election to occupy the position of the third biggest party in Sweden coming after the Social Democrats and the Conservative Parties. However, this party kept growing particularly after 2015 crisis when its share in the Swedish Parliament reached to 17,5 percent in 2018 parliamentary election, again coming as the third biggest party after the Social Democrats and the Conservative Parties (Borevi and Shakra, 2019, p.11).

On one side it can be observed that in Sweden there has been an attempt to abolish the direct political influence over the asylum cases and decisions through major legal, legislative and

judicial change in 2005. The Aliens Appeals Board of Sweden was put an end to and replaced by the three Migration Courts and one Migration Court of Appeal. This change was approved by all parliamentary parties with the aim to stop the direct political control over the judicial asylum decisions (Borevi and Shakra, 2019; Johannesson 2017; Emilsson 2018). This initiative indicates how the political pressure has left more influence on the judicial and legal protection insituations all the time in comparsion to other field of law and insituations.

On the other side, the main findings of this report illustrate that the political overwhelming pressure and considerations in the Swedish parliament, which the judicial, legislative and legal system has been under since the 2015 crisis, had jeopardised the principle of legal certainty. The state of confusion and vagueness has been the common state within the judicial and institutional systems in Sweden in relation to the protection related matters. This is partially because of an unusually rapid legislative process that produced acts suffered from different legal lacunas. In others words, one can observe that the migration and asylum matters since 2015 have been ruled with uncertainty on all levels from the subject's side and the institution's side.

UNHCR has in several occasions repeatedly stated that Sweden has a long tradition in being one of the main supporters of the international protection regime and a leading country in providing sanctuary to persons in need of international protection in international level. In addition, in the European context Sweden has received a large number of asylum seekers since 2012 in comparison to the other EU member states (UNHCR, 2019b).

In the Swedish country report one (WP1) in the RESPOND research project the made observation described the changes in the Swedish migration policies from the very generous to one of the restrictive in the EU level as "*U turn*" (Shakra, Wirman, Szalanska, Cetrez, 2018, p. 7). This was apparent after the introduction of the Temporary Act which mainly limited the possibility for the family reunification. Family reunification has been one of the main pathes to reach the safe heaven in Sweden for asylum seekers (Shakra, Wirman, Szalanska, Cetrez, 2018, p. 10). On the other hand, with the extension of the same Temporary Act, which opened the possibility for family reunification for the beneficiaries of subsidiary protection, it can be noted that Sweden still tries to return gradually to its long tradition. According to the provided statistics in this report the number of the newly arrival migrants through the right for family reunification has been the biggest during 2018 and 2019. Nevertheless, the legal certainty principle in the legal, legislative and judicial process in the asylum related matters has not been the priority under the pressure of extraordinary political circumstances. Therefore, it can be also noted that the Swedish Migration policies have been turning in "*Zig Zag Line*" so far between its long traditions of supporting the refugee cause and the political preasure of right-wing, anti-immigration and populist sentiment.

8. Policy Brief and Policy Recommendations

1. The previous research has indicated the need to increase the effort to find a common ground for the interpretation and implementation of the Dublin Regulation among the EU member states (Borevi and Shakra 2019, p.49) and eventually the need to reform the Dublin system (European Council, 2018). This report confirms this conclusion and shows that the interpretation and implementation of the Dublin Regulation cannot be realized separately from the application of the internal flight relocation assessment as well as the security evaluation of the country of origin at the EU level. For example, the different application of the internal flight assessment and the different security evaluation of Afghanistan in France in comparison to Sweden and Germany have resulted in movement of thousands of Afghani young asylum seekers whose asylum applications had been rejected from Sweden to France (see sections 5.1.7, 5.1.8 and 5.1.9). It can be said that the large variance among the perspectives of the different EU member states concerning the security evaluation of the country of origin, the internal flight relocation and other protection related questions is difficult to justify or understand without taking a closer look into the political circumstances, position and agenda of each EU member state.

2. This report shows the clear need to review the system of the subsidized legal presentation and public counsel offered to the asylum seekers by the SMA. Accountability, qualifications, credential checks, quality evaluation, raising awareness of the deficiencies and manipulation in obtaining cases and fair distribution of the cases can be the guiding principles here. In addition, these guiding principles should be continuously revisited in order to improve this system in supporting the needy asylum seekers every time a change occurs in this system.

3. The recruitment process, the human resources of the SMA and their education and training are becoming stabilised after the tough period from 2015 to 2017 as indicated in this report. However, the findings in this report illustrate how the cut in the budget provided to the SMA and the decrease in the number of its staff have led to negative consequences even though the number of persons seeking asylum in Sweden has decreased. Cutting the budget and reducing the number of staff are not necessarily cost effective, as the findings in this report show too. One of the results of this cut has been that the limited human resources have been re-directed into the most pressing applications. These pressing applications are mainly the citizenship or family reunification applications while the asylum applications have had to wait longer. The citizenship or family reunification applications do not cost as much as the asylum seekers' needs for accommodation and other living costs do. This is clear when the waiting periods get longer because the human resources for other applications than the asylum ones. It can be said again that the logic of this policy cannot be justified or understood without looking into other political circumstances in Sweden.

4. This report illustrates the fact that knowledge and experience concerning the application of the exclusion clauses in the Aliens Act were limited among case officers few years ago which led to negative or unjust consequences. However, the later recent increase in the training and education of the case officers have changed the situation and increased their experience in dealing with the of the exclusion cases. This lack of knowledge and experience could be attributed to different reasons (see section 5.1.5). However, it can be assumed that limiting the budget and reducing the Migration Agency's staff would not contribute in creating a secure job environment or giving the space for the case officers, who worked under time pressure, to carefully investigate such complicated types of legal

cases. The careful follow - up of the exclusion clauses' application maintains the fairness of the legal and judicial system and guarantees its legal certainty.

5. The findings in this report show also the need to reconsider the incompatibility of the absence of the third and fourth types of protection grounds or statuses from the Swedish Aliens Act since 2016 (see sections 5.1.1 and 5.1.2) with the government's initiative to incorporate the UNCRC into Swedish law.

6. Prior research has indicated the acute need to take measures at local, regional level to conduct a dialogue for further efforts to facilitate the situation of the targeted group covered by the Act on Upper Secondary School Education. In addition, the need for information provided to the school and social service staff and civil society concerning this targeted group and the implementation of this act is also a necessity (Lansstyrelsen 2018: 29). This report confirms this need and illustrates the state of confusion among the actors involved in the implementation of this act and the future of the targeted group, which could lead to negative consequences for their future and a waste of society's resources.

Appendices

Appendix A: Micro-level interviews sample

No.	Micro-level Interviews		
1	Syrian man, Age group 50+, Nr.1	32	Syrian woman, Age group 27-50, Nr.32
2	Syrian woman, Age group 27-50, Nr.2	33	Syrian woman, Age group 27-50, Nr.33
3	Syrian man, Age group 27-50, Nr.3	34	Syrian man, Age group 27-50, Nr.34
4	Syrian man, Age group 27-50, Nr.4	35	Syrian woman, Age group 27-50, Nr.35
5	Syrian woman, Age group 27-50, Nr.5	36	Syrian man, Age group 27-50, Nr.36
6	Syrian man, Age group 27-50, Nr.6	37	Syrian woman, Age group 27-50, Nr.37
7	Syrian man, Age group 27-50, Nr.7	38	Syrian man, Age group 27-50, Nr.38
8	Syrian woman, Age group 27-50, Nr.8	39	Syrian man, Age group 27-50, Nr.39
9	Syrian man, Age group 27-50, Nr.9	40	Syrian man, Age group 27-50, Nr.40
10	Syrian woman, Age group 27-50, Nr.10	41	Syrian man, Age group 50+, Nr.41
11	Syrian man, Age group 27-50, Nr.11	42	Syrian man, Age group 27-50, Nr.42
12	Syrian woman, Age group 27-50, Nr.12	43	Syrian man, Age group 27-50, Nr.43
13	Syrian woman, Age group 27-50, Nr.13	44	Syrian man, Age group 27-50, Nr.44
14	Syrian man, Age group 27-50, Nr.14	45	Iraqi man, Age group 50+, Nr.45
15	Syrian man, Age group 27-50, Nr.15	46	Iraqi woman, Age group 27-50, Nr.46
16	Syrian man, Age group 27-50, Nr.16	47	Afghan man, Age group 18-26, Nr.47
17	Syrian man, Age group 18-26, Nr.17	48	Afghan man, Age group 18-26, Nr.48
18	Syrian woman, Age group 27-50, Nr.18	49	Afghan man, Age group 18-26, Nr.49
19	Syrian man, Age group 50+, Nr.19	50	Afghan man, Age group 27-50, Nr.50
20	Syrian man, Age group 27-50, Nr.20	51	Afghan man, Age group 18-26, Nr.51
21	Syrian woman, Age group 27-50– Nr.21	52	Afghan woman, Age group 27-50, Nr.52
22	Syrian man, Age group 18-26, Nr.22	53	Afghan woman, Age group 27-50, Nr.53
23	Syrian woman, Age group 27-50, Nr.23	54	Afghan woman, Age group 27-50, Nr.54
24	Syrian woman, Age group 27-50, Nr.24	55	Afghan woman, Age group 18-26, Nr.55
25	Syrian woman, Age group 27-50, Nr.25	56	Afghan woman, Age group 27-50, Nr.56
26	Syrian woman, Age group 27-50, Nr.26	57	Afghan woman, Age group 18-26, Nr.57
27	Syrian man, Age group 27-50, Nr.27	58	Afghan woman, Age group 27-50, Nr.58
28	Syrian woman, Age group 50+, Nr.28	59	Afghan man, Age group 18-26, Nr.59
29	Syrian woman, Age group 27-50, Nr.29	60	Afghan man, Age group 50+, Nr.60
30	Syrian woman, Age group 27-50, Nr.30	61	Afghan man, Age group 27-50, Nr.61
31	Syrian woman, Age group 18-26, Nr.31		

Appendix B: Meso-level interviews sample

No.	Code	Institution	Function
1	SWE_181213_Meso_No 1	Swedish Migration Agency	Civil servant
2	SWE_181214_Meso_No 2	Swedish Police	Civil servant
3	SWE_190119_Meso_No 3	NGO	Activist
4	SWE_190208_Meso_No 4	NGO	Representative
5	SWE_190215_Meso_No 5	N/A	Lawyer
6	SWE_190219_Meso_No 6	Swedish Migration Agency	Civil servant
7	SWE_190319_Meso_No 7	NGO	Representative
8	SWE_190424_Meso_No 8	Swedish Migration Agency	Civil servant
9	SWE_191001_Meso_No 9	NGO	Lawyer

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