

UNHCR Observations on the Legislative Proposals in the interim Report “Cancellation of the permanent residence permit and amendment of relevant Swedish regulations to meet the minimum level required under EU law”

I. Introduction

1. The United Nations High Commissioner for Refugees (“UNHCR”) Representation for the Nordic and Baltic Countries (“RNB”) would like to thank the Government of Sweden for the invitation to provide observations on the legislative proposal in the interim report, “Cancellation of the permanent residence permit and amendment of relevant Swedish regulations to meet the minimum level required under EU law” (“Utmönstring av permanent uppehållstillstånd och visa anpassningar till miniminivån enligt EU:s migrations- och asylpakt-delbetänkande av Miniminivåutredningen”, SOU 2025:31) – hereafter referred to as the “Proposal”.¹
2. UNHCR has a direct interest in law proposals in the field of asylum, as the agency entrusted by the UN General Assembly with the mandate to provide international protection to refugees and, together with Governments, seek permanent solutions to the problems of refugees.² Paragraph 8 of UNHCR’s Statute confers responsibility on UNHCR for supervising international conventions for the protection of refugees,³ whereas the 1951 Convention relating to the Status of Refugees⁴ and its 1967 Protocol relating to the Status of Refugees (hereafter collectively referred to as “1951 Convention”) oblige States to cooperate with UNHCR in the exercise of its mandate, in particular facilitating UNHCR’s duty of supervising the application of the provisions of the 1951 Convention and 1967 Protocol (Article 35 of the 1951 Convention and Article II of the 1967 Protocol).⁵
3. UNHCR’s supervisory responsibility is exercised in part by the issuance of interpretative guidelines on the meaning of provisions and terms contained in international refugee instruments, in particular the 1951 Convention. Such guidelines are included in the UNHCR Handbook on Procedures and Criteria for Determining Refugee Status and

¹ Swedish Government Official Reports, “Cancellation of the permanent residence permit and amendment of relevant Swedish regulations to meet the minimum level required under EU law”, SOU 2025:31 Full report (in Swedish): [Utmönstring av permanent uppehållstillstånd och vissa anpassningar till miniminivån enligt EU:s migrations- och asylpakt](#), SOU 2025:31.

² UN General Assembly, Statute of the Office of the United Nations High Commissioner for Refugees, 14 December 1950, A/RES/428(V) <https://www.refworld.org/docid/3ae6b3628.html> (“the Statute”).

³ Ibid, para. 8(a). According to para. 8(a) of the Statute, UNHCR is competent to supervise international conventions for the protection of refugees. The wording is open and flexible and does not restrict the scope of applicability of the UNHCR’s supervisory function to one or other specific international refugee convention. UNHCR is therefore competent qua its Statute to supervise all conventions relevant to refugee protection, UNHCR’s supervisory responsibility, pp. 7-8, October 2002 <https://www.refworld.org/docid/4fe405ef2.html>.

⁴ UN General Assembly, Convention Relating to the Status of Refugees, 28 July 1951, United Nations Treaty Series, No. 2545, vol. 189 <http://www.unhcr.org/refworld/docid/3be01b964.html>. According to Article 35(1) of the 1951 Convention, UNHCR has the “duty of supervising the application of the provisions of the Convention”.

⁵ UNHCR’s supervisory responsibility has also been reflected in European Union (“EU”) law, including by way of general reference to the 1951 Convention in Article 78 (1) of the Treaty on the Functioning of the EU.

subsequent Guidelines on International Protection (“UNHCR Handbook”).⁶ UNHCR also fulfils its supervisory responsibility by providing comments on legislative and policy proposals impacting on the protection and durable solutions of its persons of concern.

4. The stated aim of the Swedish Government with the present interim report is to assess the possibility of cancellation of permanent residence permits for certain groups as well as amending relevant Swedish regulations to meet the minimum standards required under EU law.⁷ According to the Proposal, *“the starting point for this inquiry’s assignment is that Sweden should not in any respect have a regulatory framework that is more generous than what is required under EU law and that the possibilities for limiting the rights of asylum-seekers under EU law are fully utilized.”* The three legal instruments that are part of the EU Pact on Migration on Asylum, and that are relevant to the issues examined in the interim report are the Asylum Procedures Regulation, the Asylum and Migration Management Regulation and the Union Resettlement Framework Regulation.⁸
5. The task of the inquiry has been to: i) assess whether the current Swedish law allows for the possibility of refusing to examine asylum applications in more situations than those derived directly from the Asylum Procedures Regulation, ii) assess whether national Government agencies should be authorized to declare asylum applications unfounded when this is manifestly the case in accordance with the possibility that exists under the Asylum Procedure Regulation, iii) assess the need for amendments to Swedish law in relation to the provisions of the EU Pact on Migration and Asylum concerning legal advice and legal assistance and representation, iv) assess the possibility of issuing temporary residence permits instead of permanent residence permits to beneficiaries of international protection.
6. In its observations below, UNHCR will focus on aspects related to the proposed reduction of exceptions to inadmissibility of asylum claims, the expansion of claims declared as manifestly unfounded, the proposed reduced access to legal counselling and legal aid particularly for unaccompanied children, as well as the proposed discontinuation of the issuance of permanent residence permits to beneficiaries of international protection.

⁶ UNHCR, Handbook on Procedures and Criteria for Determining Refugee Status and Guidelines on International Protection Under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees, April 2019, HCR/1P/4/ENG/REV. 4 <https://www.refworld.org/docid/5cb474b27.html>.

⁷ The second and final part of the report will outline the conditions under which it should be possible to change the permanent residence permits that have been granted to certain aliens to temporary residence permits. The inquiry will submit its final report on that part on 2 October 2025.

⁸ Swedish Government Official Reports, “Cancellation of the permanent residence permit and amendment of relevant Swedish regulations to meet the minimum level required under EU law”, SOU 2025:31 Full report (in Swedish): [Utmönstring av permanent uppehållstillstånd och vissa anpassningar till miniminivån enligt EU:s migrations- och asylpakt, SOU 2025:31](#).

II. Observations

a. Inadmissibility of asylum applications

7. The Proposal advises that the Aliens Act be amended in order to allow for asylum applications to be declared inadmissible in all situations foreseen in Article 38 of the Asylum Procedure Regulation.⁹ To that effect, the current exceptions to inadmissibility of an asylum application as provided for in chapter 5 (1)(b) of the Aliens Act would be removed. One of these exceptions relates to the principle of family unity: an application is not declared inadmissible if the applicant has a spouse, child or parent residing in Sweden, and does not have an equally close family link to the country to which the enforcement of a removal order may take place.
8. UNHCR is concerned that the removal of this exception may lead to separation of family members when the applicant's request is declared inadmissible – and the individual is ultimately removed – while the family continues to reside in Sweden. UNHCR's position is that possibilities for family reunion and unity should take precedence over admissibility considerations. To ensure respect for the right to family unity and the best interests of the child, as enshrined in international law and the EU Charter, persons who can be – or who can remain - reunited with family members should not be subject to admissibility procedures.¹⁰
9. UNHCR therefore recommends not to remove the exception to inadmissibility to safeguard the principle of family unity.

b. Manifestly unfounded asylum applications

10. The Proposal advises introducing provisions in the Aliens Act that would enable the Swedish Migration Agency to declare an unfounded asylum application as manifestly unfounded in all situations listed in Article 42 (1) and (3) of the Asylum Procedure Regulation.¹¹ On the rationale for the proposed amendment, the Proposal notes that “[i]t is ... debatable how great a need there is to enable the Swedish Migration Board to consider an asylum application as manifestly unfounded. However, the Commission believes that the possibility can fulfil an important symbolic function while at the same time being of some importance.”¹²
11. UNHCR appreciates that applications that are clearly not related to the criteria for refugee status or which are clearly fraudulent or abusive may be rejected as manifestly unfounded.

⁹ Proposal, pp.75-86.

¹⁰ UN High Commissioner for Refugees (UNHCR), *UNHCR Comments on the European Commission's Proposal for an Asylum Procedures Regulation*, COM (2016) 467, April 2019, <https://www.refworld.org/legal/intlegcomments/unhcr/2019/en/122595>, p. 30. See also UNHCR, UNHCR comments on the European Commission proposal for a Regulation of the European Parliament and of the Council establishing the criteria and mechanisms for determining the member state responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast) – COM (2016) 270, (“UNHCR 2016 Dublin Comments”), p. 11, available at: <http://www.refworld.org/pdfid/585cdb094.pdf>.

¹¹ Proposal, pp. 87-99.

¹² Proposal, pp. 98.

UNHCR's prior statements on this subject have indicated that claims by individuals who clearly are not in need of international protection, or who make claims with an intent to deceive or mislead decision makers, may be subject to expedited procedures. Thus, UNHCR's position is that only claims which are clearly abusive, clearly fraudulent or have no link to the 1951 Convention should be considered as "manifestly unfounded."¹³

12. UNHCR also emphasizes that, in the absence of legal assistance and the limited availability of legal counseling (see comments below under (c)), there is a risk that applicants may be unaware of which elements are relevant to substantiate their asylum claim. This may negatively impact the outcome of their application.
13. Given the position expressed above, UNHCR recommends refraining from expanding the list of conditions under which an asylum claim may be deemed manifestly unfounded beyond cases that are clearly abusive, clearly fraudulent, or have no link to the 1951 Convention.

c. Legal counselling and legal assistance and representation

14. Chapter 18 (1) of the Aliens Act provides for legal assistance by public counsel to applicants for international protection. The Proposal now advises that, in future, asylum-seekers would be entitled to one hour of free-of-charge legal counselling only, rather than legal assistance.¹⁴ In specific circumstances, an additional hour of counselling may be approved.¹⁵
15. UNHCR welcomes that the Proposal provides for individual and free-of-charge legal counselling for all asylum-seekers, including when determining the member state responsible. UNHCR indeed recommends that at "all stages of the procedure, including at the admissibility stage, asylum-seekers should receive guidance and advice on the procedure and have access to legal counsel".¹⁶
16. UNHCR is however concerned that legal counselling would be limited to one hour or maximum two hours if specific circumstances so warrant. Further, the proposed legal counselling does not include accompanying the asylum-seeker to the asylum interview or providing a written statement, outlining key elements of the asylum claim. Consequently, asylum-seekers may not be sufficiently prepared for and aware of what is relevant to share during an asylum interview and may therefore fail to adequately articulate their claim.

¹³ UNHCR, UNHCR's Position on Manifestly Unfounded Applications for Asylum, 1 December 1992, 3 European Series 2, ("UNHCR's Position on Manifestly Unfounded Applications"), p. 397, available at: <http://www.refworld.org/docid/3ae6b31d83.html>. See also UNHCR Discussion Paper Fair and Fast – Accelerated and Simplified Procedures in the European Union, 25 July 2018, available at: <http://www.refworld.org/docid/5b589eef4.html>.

¹⁴ Also, in the procedure for determining the Member State responsible, an applicant should have the right to one hour of legal counselling free of charge.

¹⁵ Proposal pp. 101-159.

¹⁶ UN High Commissioner for Refugees (UNHCR), *Global Consultations on International Protection/Third Track: Asylum Processes (Fair and Efficient Asylum Procedures)*, EC/GC/01/12, 31 May 2001, <https://www.refworld.org/policy/strategy/unhcr/2001/en/13248>, para. 50 (g).

17. Further, the Proposal argues that currently, public counsel's written statement often focuses on correcting the asylum interview transcript. In future, this would be solved through mandatory recording of the interview that would be shared with the asylum-seeker. In practice, however, it may be difficult for applicants to compare a recording with what has been written in Swedish in the interview transcript without the support by legal counsel, and especially without the necessary language skills. This puts the asylum-seeker in a disadvantaged position and can have a detrimental impact on the asylum case.
18. In UNHCR's view, the proposed form of legal counseling may lead to a less efficient asylum procedure as there is a greater risk that information relevant to the asylum decision will only be disclosed at a later stage. Effective legal advice and representation not only helps asylum-seekers to understand the process, but also enhances the quality of information provided to asylum authorities, resulting in shortened adjudication timelines and fewer appeals and reapplications.¹⁷ UNHCR recalls that "a central objective of the EU Pact on Migration and Asylum is to simplify and enhance the efficiency of procedures. Ensuring access to quality legal aid assistance from the start of the asylum process is crucial not only for the effectiveness and fairness of the administrative procedure, but also for enabling efficient and accurate decision-making and judicial review."¹⁸
19. UNHCR is furthermore concerned that the Proposal does not provide for special considerations or additional time for legal counselling for unaccompanied children. UNHCR would like to underline that in "the examination of the factual elements of the claim of an unaccompanied child, particular regard should be given to circumstances such as the child's stage of development, his/her possibly limited knowledge of conditions in the country of origin, and their significance to the legal concept of refugee status, as well as his/her special vulnerability."¹⁹ In this regard, enough time for legal support from public counsel is especially important for unaccompanied children.

d. Temporary residence permits

20. Pursuant to the Proposal, in future, only temporary – instead of permanent - residence permits shall be issued to, among others, refugees, including resettled refugees, and beneficiaries of subsidiary protection.²⁰ Chapter 5, section 1a of the draft amendments provides that temporary permits for refugees, including resettled refugees, will be valid for an initial period of three years, and any new temporary residence permits thereafter shall be valid for two years. Residence permits granted to beneficiaries of subsidiary protection shall be valid for thirteen months and each new temporary residence permit granted thereafter shall be valid for two years.

¹⁷ Asylum Capacity Support Group, Boosting the effectiveness of asylum systems: the impact of legal advice and representation Outcome Report 2 October 2024 https://acsg-portal.org/wp-content/uploads/2024/11/Outcome-Report_November-24.pdf.

¹⁸ UN High Commissioner for Refugees (UNHCR), *UNHCR Comments and Recommendations on the proposed amendments to the Czech Asylum Act*, April 2025, <https://www.refworld.org/legal/natlegcomments/unhcr/2025/en/150020>, p. 7.

¹⁹ UNHCR Guidelines on Policies and Procedures in dealing with Unaccompanied Children Seeking Asylum. Geneva. February 1997. [Guidelines on Policies and Procedures in Dealing with Unaccompanied Children Seeking Asylum | Refworld](#) p. 12.

²⁰ Proposal, pp. 161-232.

21. In addition, anyone who has already been granted permanent resident *status* will in future be granted a temporary residence *permit* instead, which will be valid for five years. Each new temporary residence permit granted thereafter shall be valid for five years. The amendment thus constitutes an adjustment to the minimum standards applicable under the Long-Term Residents Directive.
22. UNHCR would like to point out that pursuant to Article 24(4) of the Qualification Regulation, a residence permit shall have an initial period of validity of at least three years for beneficiaries of refugee status and at least one year for beneficiaries of subsidiary protection status.²¹ On expiry, residence permits shall be renewed for *at least three years* for beneficiaries of refugee status and for *at least two years* for beneficiaries of subsidiary protection status. Thus, the renewal periods as set forth in the Proposal are not in line with the mandatory provisions of Article 24(4) of the Qualification Regulation.
23. Moreover, UNHCR has long advocated for refugees and beneficiaries of subsidiary protection to have a secure and stable legal status, which is not subject to regular review. Therefore, on the length of residence permits, UNHCR suggests an initial period of validity of *five years*, in line with the practice in a number of EU Member States, and coherent with the time frames foreseen under the Long-Term Residence Directive.²²
24. Further, UNHCR maintains that distinctions between beneficiaries of international protection are often neither necessary nor objectively justified in terms of flight experience and protection needs. UNHCR considers that there is no reason to expect the protection needs of subsidiary protection beneficiaries to be of a different nature or shorter duration than the need for protection as refugees. In practice, beneficiaries of subsidiary protection are generally not able to return home earlier than refugees. Further, their integration prospects would benefit from the certainty provided by a status of longer duration.²³
25. UNHCR therefore recommends that all beneficiaries of international protection, be they refugees or subsidiary protection holders, receive a residence permit for a period of five years and renewable thereafter for periods of five years.

III. Recommendations

26. Based on the above observations, UNHCR invites the Government of Sweden to consider the following recommendations:
 - a. Maintain the exception to inadmissibility based on family unity grounds. To ensure respect for the right to family unity and the best interests of the child, as enshrined in

²¹ Regulation (EU) 2024/1347 of the European Parliament and of the Council of 14 May 2024 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection and for the content of the protection granted, amending Council Directive 2003/109/EC and repealing Directive 2011/95/EU of the European Parliament and of the Council, https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L_202401347.

²² UN High Commissioner for Refugees (UNHCR), *UNHCR Comments on the European Commission Proposal for a Qualification Regulation – COM (2016) 466*, February 2018, <https://www.refworld.org/legal/intlegcomments/unhcr/2018/en/120341>, p. 34.

²³ Ibidem, p. 33.

international law and the EU Charter, persons who can be reunited or remain united with family members, should not be subject to admissibility procedures.

- b. Refrain from expanding the list of conditions under which an asylum claim may be deemed manifestly unfounded beyond cases that are clearly abusive, clearly fraudulent, or have no link to the 1951 Convention.
- c. Provide for more hours of free-of-charge legal counseling, as well as the opportunity for legal counsel to accompany the asylum-seeker to their asylum interview, particularly when it regards unaccompanied children.
- d. Grant five years residence permits, renewable for periods of five years, to all beneficiaries of international protection, be they refugees or subsidiary protection holders.

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