



# Family Reunification in Sweden – Policies and Practices

**Netherlands National Conference “Family reunification in the  
Netherlands and Europe”**

**The Hague, 18 May 2017**

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# Legal framework

- **Aliens Act (2005)**
  - Amendments over the years, e.g. possibility of DNA-test, provisions with a view to reduce risk of family separation
- **Temporary act on restrictions of the possibility of being granted a residence permit in Sweden (2016)**
  - In force 20 July 2016 to 19 July 2019
  - Temporary residence permits (except for resettled)
  - Limits family reunification to nuclear family
  - Beneficiaries of subsidiary protection may only exceptionally have possibility to family reunification
  - Tougher maintenance requirements
  - Minimum age 21 years for spouses/partners



# Family reunification for beneficiaries of subsidiary protection

- Right to family reunification for BSPs **suspended** by Temporary Act
- Rejected unless rejection would **contravene** Sweden's commitment under an international convention (ECHR's article 8).
- Guidelines to assess applications; Director of Legal Affairs judicial position
- **Difficult** to assess effects of suspension at this point:
  - Backlog, transitional rules – **applications received up to 24 November 2015** = Aliens Act + BSPs right to family reunification, tougher maintenance requirement, relaxations in instruction to assess accommodation requirement
  - Starting to see increase in rejection rate, for example due to maintenance requirement
- Number of first time applications: January-April 2016:, 14 100, January-May 2017: 16 200



# Dealing with a lack of documentary evidence

- **Challenge**
  - Somalia, Afghanistan, Eritrea, Syria – few countries account for bulk of challenge
- Interviews (applicant + sponsor), DNA-tests, missions, COI-unit
- Applicant has **evidentiary burden** to substantiate/”*prove*” id and family ties, lack of documentation can lead to rejection; free sifting of evidence
- **Case law development** at Migration Court of Appeal since 2012: Alleviation of evidentiary requirement concerning id for certain applicants:
  - Suffices to make id ”*probable*” in conjunction with a DNA-test that proves family ties to make family reunification possible



# Taking into account the best interest of the child

- **Migration Agency framework:**
  - Overall "**Child Policy**" decided by Director General in 2011; Director of Legal Affairs judicial position on minors in migration cases (2015); Handbook and other resources; dedicated page on internal website
- Minors interviewed (voluntary on their part to participate); adapted form for interviews with minors
- **Challenge** that no legal requirement to conduct oral interviews in applications for family reunification
- Applications which include minors who have turned 17 years of age **prioritised**
- Swedish Government Official Report with a view incorporate the **Convention on the Rights of the Child** in national legislation; Government Bill expected this year



# Further reading and information

- Swedish Migration Agency, website in English:  
<https://www.migrationsverket.se/English/Startpage.html>
- The Government Offices of Sweden, website in English:  
<http://www.government.se/>
- The Swedish EMN National Contact Point, website:  
<http://www.emnsweden.se>

**Dank u wel!**

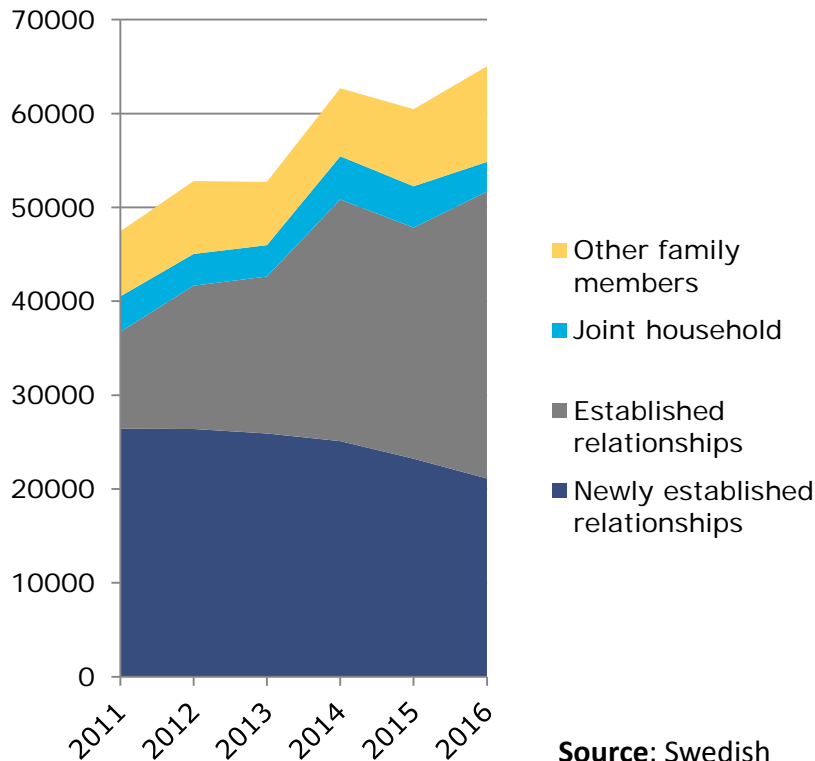
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# Basic overview

Number of received first time applications for family reunification

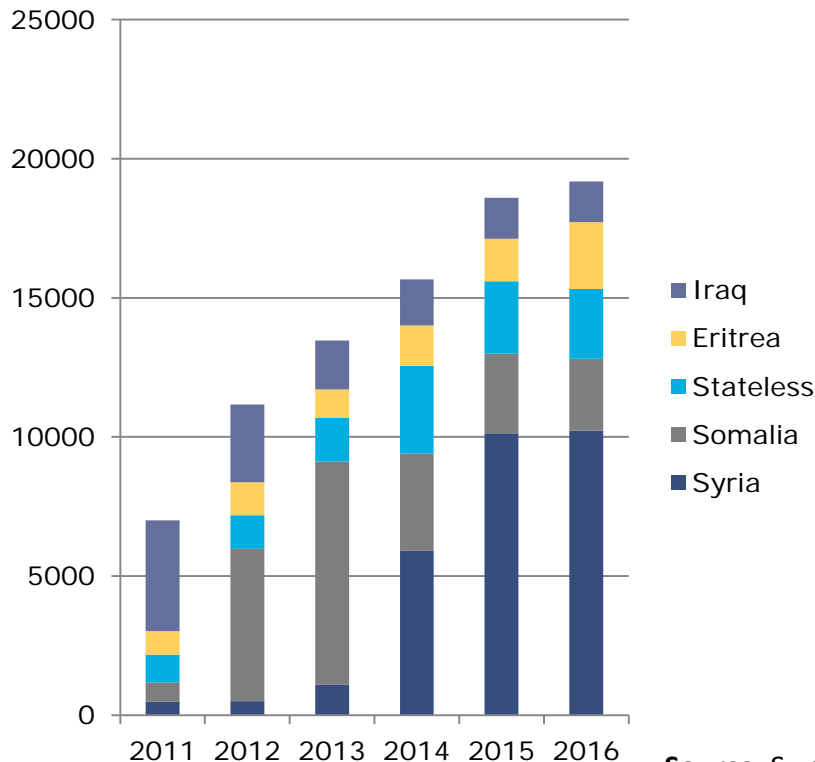


Source: Swedish Migration Agency

- Family-based migration **often largest** category
- Family reunification often subject to less public and policy debate than asylum seekers
- Maintenance requirement and lengthy application processing times source of some debate

# Major trends

Number of granted residence permits for family reunification – top 5 nationalities



Source: Swedish Migration Agency

- Applications for asylum and family reunification strongly interconnected
- Top countries in asylum = top countries in family reunification
- **China** and **Thailand** only major countries for family reunification from which Sweden does **not** receive many asylum seekers



# Basic legal rules and practices



- Main rule – residence permit applied for and granted **before** entry to Sweden (**exceptionally** granted after entry)
- Permanent residence permit main rule in Aliens Act (“established relationships”)
- **Deferral of immigrant status** = two year probation period (“newly established relationships”)
- Gender neutral = **opposite sex** and **same sex** spouses/partners **equal** rights
- Spouses/common law spouses **equal** status
- Nuclear family members **right** to reunite
- Unaccompanied minors who are beneficiaries of international protection **right** to reunite with parents and underage siblings in Aliens Act
- Extended family members **may** reunite (“joint household” or due to exceptional grounds) in Aliens Act

# Basic legal rules and practices 2



- An applicant must as a rule **substantiate** his/her identity and family ties with written documentation, normally with a passport
- **DNA-tests** to prove family ties possible
- Assessment of **best interest of the child** integral in decisions which affect a minor
- Maintenance and accommodation requirements assessed at time of decision
- Possibility to apply for **autonomous residence** in case of dissolution of family ties in Aliens Act
- Few post admission integration requirements – **BUT**, family members equal access as sponsor to education, vocational training etc.



# Application procedure

- Family member submits application at **Swedish mission abroad** or **online** via the Swedish Migration Agency's website
- Missions play important role
  - E.g. check/verify documents, collect fees & biometrics, carry out interviews, notify applicants
- Swedish Migration Agency decides on applications
- Appeals processed at Migration Courts and Migration Court of Appeal



# Recent challenges

- Massive **backlog** of applications at the Swedish Migration Agency, **long wait times** for applicants
- → Digital case management, increased use of written communication, action plan and increased resources to family reunification at Swedish Migration Agency
- Difficulties to reach Swedish **missions** for applicants
- → Online application (by sponsor), more missions to accept applications
- Difficult for some applicants to **prove** identity and family ties
- → Case law development since 2012 generally **benefited applicants**; alleviation of evidentiary requirement, DNA-tests
- **Costly** for applicants to acquire original documents required by authorities
- → Application fees waived for several categories



# Conclusions & Summary

- Migration for family reasons **traditionally** major category
- Protection related migration and migration for family reasons **strongly interconnected**
- Consequences of the **temporary act** likely to be subject to increased public attention
- Swedish Migration Agency enabled to **shift resources** to family reunification as number of asylum seekers significantly lower, action plan for family reunification
- Expected **increased** policy debate approaching 2019

**Thank you!**

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