



**HUMANITARIAN
CONSEQUENCES OF THE
SWEDISH TEMPORARY
ALIENS ACT**

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The mission of the International Red Cross and Red Crescent Movement is to prevent and reduce human suffering – wherever it occurs and whoever is affected. The work of the Movement is based on international humanitarian law, international human rights law, as well as the fundamental principles of the Movement, namely; humanity, impartiality, neutrality, independence, voluntary service, unity and universality. Everything the Movement does aims to protect human life and health, to uphold respect for human dignity, and to promote peace.

The Swedish Government decided in the autumn of 2015 to introduce a temporary Aliens Act (Temporary Act) with the purpose of reducing the number of asylum-seekers. The measures were taken as a reaction to the large number of asylum-seekers arriving in Sweden during 2015. During that year, 162 877 people applied for asylum in Sweden. This can be compared to 2010 when a total number of 31 819 people applied for asylum. The Temporary Act is valid for three years until 19 July 2019. The right to residence was heavily restricted by the Temporary Act and Sweden went from having one of the most generous legislations to being one of the most restrictive asylum countries in Europe. The Temporary Act has now been in force for over two years and with this report the Swedish Red Cross wishes to illuminate the humanitarian consequences of the introduced restrictions.

The report is based on an analysis of 161 decisions and judgements from the Swedish Migration Agency and the four Swedish Migration Courts. In addition, 28 interviews have been conducted with individuals affected by the Temporary Act. The respondents include asylum-seekers and individuals granted protection in Sweden, Swedish Red Cross volunteers and professionals; academics, health care personnel, psychologists and a representative from the Swedish Migration Agency. The results are also based on a survey amongst psychologists and counsellors working in the Swedish Red Cross treatment centers for victims of torture and armed conflict.

Before the Temporary Act was adopted, the Swedish Red Cross forewarned that the restrictions would result in severe humanitarian consequences for many people. This research shows that many of the anticipated consequences have come true.

The main findings are as follows:

- The change to temporary instead of permanent residence permits has had a negative impact on mental health. Such permits also make it more difficult to properly access and benefit from health care and trauma treatment. Holders of temporary residence permits are in some cases denied health care where medical staff assess that the necessary treatment needs to be lifelong to give the intended result;
- The restrictions on the right to family reunification often result in children being separated from their parents for long periods of time. The stricter supporting requirements, i.e. that the family member in Sweden needs to have a certain standard of accommodation and level of income, are often impossible to meet. The requirements risk affecting women more than men, since women statistically have a lower employment rate and find employment later. Women and children also often remain in the country of origin or in a third country living in difficult conditions;



Photo: Yara Nardi/Italian Red Cross

- Many decisions and judgements lack proper reasoning as to why a denial of family reunification is not considered to be in breach of a “Swedish Convention obligation” (svenskt konventionsåtagande - a term stipulated in the Temporary Act). This lack of reasoning in turn leads to a lack of legal certainty with regard to the interpretation and application of the Act. The risk is further increased due to the lack of guidance from the Swedish Migration Court of Appeals in this regard.
- Beneficiaries of subsidiary protection are highly affected by the Temporary Act since they only receive short temporary residence permits (13 months) and are also generally denied family reunification.

The Temporary Act

According to the Temporary Act, refugees and beneficiaries of subsidiary protection are granted temporary, instead of permanent, residence permits. The protection category “otherwise in need of protection” is no longer in use, and residence permits on the ground of “particularly distressing circumstances” are only granted if an expulsion would be in breach of a “Swedish Convention obligation”. The Temporary Act also provides that beneficiaries of subsidiary protection no longer have the right to family reunification. Strict supporting requirements have been introduced that an applicant of family reunification needs to meet, which reduce even further the possibilities for many people to reunite with their families.

” I couldn’t feel any happiness when I got my residence permit, it only felt as if they had prolonged the date for my return. Now when I know I can stay for one year I feel even more stressed. What will happen to me? Will I eventually be forced to return? How is my family doing?”

During this research, no evidence has emerged that the decrease in the number of asylum-seekers during the spring of 2016 was caused by the introduction of the Temporary Act. On the contrary, there are several circumstances indicating that the reduction is due to other factors. The reduction had in fact already started before the Temporary Act was introduced, and is linked to factors such as the closure of the borders of many European countries, the introduction of Swedish ID-controls and the agreement between the EU and Turkey. Since the purpose of the Temporary Act mainly was to reduce the number of asylum-seekers, it is questionable whether the human suffering that has increased because of the Temporary Act is justifiable.



Photo: Gustav Gräll/Swedish Red Cross

Unaccompanied children

The Temporary Act has affected many unaccompanied children seeking asylum in Sweden during the last few years. The asylum claims made by children who arrived in Sweden before 24 November 2015 and who have turned 18 during the asylum process, or have been assessed as 18 years or above by the Swedish Migration Agency, are adjudicated according to the Temporary Act, even though the Act was not announced at the time of their arrival. This means reduced possibilities of being granted residence permit in Sweden for individuals who would otherwise be covered by the rules for those “otherwise in need of protection” or due to “particularly distressing circumstances”. This has probably led to more rejections, which in combination with the austerity of the Swedish Act on the reception of asylum-seekers (Lag (1994:137) om mottagande av asylsökande m.fl.) means that many young people are living in Sweden without stable accommodation and other basic support.

“Basically none of the young people I meet have anywhere to live, or they have very temporary accommodation. Maybe they can temporarily live at a friend’s place for a few nights, in a church or at the central station. All of them are feeling bad.”¹

Temporary residence permits and protection status

This report shows that the mental health of individuals granted residence permit in Sweden is negatively affected by the fact that they are no longer granted permanent permits. Their worry and stress is significant since they do not know if they will be allowed to stay in Sweden by the time their temporary residence permits expire. The short permits also impact on the integration process, for example, leading to uncertainty whether it is worth focusing on a higher education or not, when they do not know if, or how long, they will be allowed to stay in Sweden.

Individuals who are granted residence permit based on “particularly distressing circumstances” are only granted a permit for 13 months. This counteracts the purpose of issuing a residence permit on this particular ground. Some people are, for example, being denied health care because their residence permit is too short for them to be able to benefit from the necessary treatment.

¹ Interview with a nurse employed by the Swedish Red Cross, respondent 26.

” *I was planning to study, but I don't know if I will be allowed to stay after 13 months or not. I would like to study to become a police officer, but now I can't. Then I was thinking about starting my own company, but I don't know if I will be allowed to stay.*²

Individuals who have applied for protection in Sweden have often endured difficult and traumatic experiences in their countries of origin and during their flight to Sweden. The Swedish Red Cross warned even before the introduction of the Temporary Act that temporary permits would lead to severe consequences for people who suffer from trauma due to armed conflict and torture. This report shows that it is hard to implement proper trauma treatment for people without a stable existence. Because of the insecurity of their residence, many are not perceptive to the needed trauma treatment. The ongoing trauma also leads to an increased risk of depression and post-traumatic stress syndrome (PTSD). The temporary permits therefore lead to difficulties in treatment and recovery from mental illness. Many children arriving with their families are affected by trauma linked to the poor mental health of their parents.

” *It isn't possible to work with crisis from the past if you're not feeling safe now. To not know whether or not you will be sent away from this country is not to be safe. There is no solid ground to stand on, something that is very obvious in the line of treatment. In therapy it becomes hard to leave the now and focus on the past.*³

The length of the permits and the right to family reunification is, according to the Temporary Act, dependent on what kind of protection status an individual is granted. As a result, the status is now much more important than it used to be. The Swedish Migration Agency has been criticized for deficient refugee status determinations. Applicants might thus incorrectly be granted subsidiary protection when they should have been granted refugee status. This is serious as they through the Temporary Act are granted shorter residence permits and denied family reunification. Individuals otherwise in need of protection, namely those who due to an international or internal armed conflict or due to other serious disturbances have a well-founded fear of serious abuse, no longer have the right to a residence permit. They are therefore at risk of being expelled, even though they may have protection needs.

Family reunification and “particularly distressing circumstances”

The right to family reunification was limited in many ways by the Temporary Act, notably by the fact that beneficiaries of subsidiary protection no longer have the right to reunite with their families. The Act also introduced stricter supporting requirements with regards to accommodation and income.

The Government considered that the restrictions were proportionate during the period of validity of the Temporary Act, because of the need for a time-out in the Swedish reception of asylum-seekers. The research shows that the restrictions have had negative consequences both for the family member(s) in Sweden as well as for family member(s) left in the country of origin or in a third country. Parents and children are often separated for many years. The absence of family support hinders recovery and impair the mental health of people applying for asylum in Sweden. Family reunification is one of the few secure and legal ways for those in need of protection to get to Europe. When that possibility disappears, more people, including children, are forced to make dangerous journeys through Europe.

2 Interview with a person with temporary residence permit in Sweden, respondent 17.

3 Answer from a question form from a psychologist at the Swedish Red Cross in Malmö, respondent 19.



Photo: Tommy Trenchard/Panos Pictures (IFRC)

The research shows that many cases concerning residence permits on grounds of family reunification are denied due to the stricter supporting requirements. The family member in Sweden is often considered to have an income that is too low or too uncertain, and difficulties in finding accommodation that is sufficiently large create further obstacles. For families with many children, both the accommodation and income requirements are difficult to meet. The strict income requirements may also lead to exploitation in the labor market since many refugees and beneficiaries of subsidiary protection are ready to accept poor working conditions if they believe it will increase their possibility of reuniting with their families.

Women are at risk of being more affected by the income requirement than men. Women who have migrated to Sweden have, according to statistics, a lower employment rate and need longer time to find employment. Many women and children remain in the country of origin or in third countries often under difficult circumstances. The reason is that it is often considered safer for male family members to make dangerous journeys, and the plan is that the rest of the family will arrive later to the country of asylum in a legal and safe way.

” *There’s an obvious difference between the people who’ve been able to reunite with their families. You can see it in their face and in the effect of their treatment. Even their looks change. First there’s a small happiness when they themselves gain residence permit, but if they cannot bring their families here, they’re living their lives in constant worry. Humans generally function better if they can be with their families.”⁴*

Residence permit on grounds of family reunification and “particularly distressing circumstances” are granted, according to the Temporary Act, only if a rejection would constitute a breach of a “Swedish Convention obligation”. However, many decisions and judgements that have been reviewed during this research lack reasoning in this respect. It is unclear how to the expression “in breach of a Swedish convention obligation” should be interpreted, and the Swedish Migration Court of Appeal has not provided any clarification in this regard. This leads to a higher risk of legal uncertainty. Further, as a result, an already vulnerable group, which rarely were able to obtain a residence permit even before the legislative changes, now have an even smaller chance, which leads to more human suffering. The report shows that severely ill people sometimes are denied health care because the time of their residence permit is too short for them to be able to benefit from the necessary treatment.

⁴ Interview with a psychologist employed by the Swedish Red Cross in Gothenburg, respondent 18.



Photo: Marie Sparreus/Swedish Red Cross

Recommendations

Based on the results of the research the Swedish Red Cross recommends the following:

- 1 Due to the severe humanitarian consequences of the Temporary Act discovered during this research, the Swedish Red Cross firstly recommends that the Government does not prolong the Temporary Act. The ordinary Aliens Act would thereby once again become valid as of 20 July 2019. Nothing in the research suggests that the Temporary Act has had the intended effect of reducing the number of asylum-seekers arriving in Sweden. The Swedish Red Cross further recommends that an inquiry should be initiated with the purpose of designing a long-term and humane aliens legislation in compliance with the rule of law.
- 2 Should refugees and beneficiaries of subsidiary protection continue to be granted temporary residence permits as the general rule, permanent residency should be granted in connection with extensions of the permits if the need for protection remains. It should further be possible to grant residence permit based on “particularly distressing circumstances” for a longer period of time than 13 months, if necessary for the applicant’s possibility to access and benefit from necessary treatment. Permanent residence permits should at least be granted after three years, regardless of reason for the permit.
- 3 In case the Temporary Act is extended or made permanent, the rules for family reunification must be adjusted. The right to family reunification should be guaranteed for both refugees and beneficiaries of subsidiary protection. The accommodation and income requirements, which in practice hinder or make family reunification impossible, must be reviewed. Because of the serious humanitarian consequences, it cannot be considered proportionate to deny families reunification for longer periods of time. Decisions and judgements must contain better and more elaborate reasoning as to what is considered a breach of a “Swedish Convention obligation”.
- 4 The requirement that a residence permit due to “particularly distressing circumstances” may only be granted if a deportation is in breach of a “Swedish Convention obligation” must be abolished. This rule is too limited and unclear. To avoid unreasonable humanitarian consequences, especially regarding children, it has to be possible to consider health and other personal reasons.

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