

Sweden Immigration Detention Profile

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INTRODUCTION

Although Sweden has been lauded for having comparatively humane detention practices, sharp increases in the numbers of arriving asylum seekers and migrants (more than 160,000 in 2015) have helped spur important shifts in policies and public discourse.[1] In January 2016, the Swedish government announced that it was introducing new border controls, boosting police forces, and planning to deport up to 80,000 non-citizens who fail to qualify for refugee status.[2] More deportations could likely lead to more money and resources being devoted to detention operations, as well as a much larger Swedish immigration detention infrastructure, [observers noted](#).[3]

Until relatively recently, there appeared to be a downward trend in the numbers of people placed in immigration detention, the vast majority of whom were adult males.[4] In 2007, **1,735** were detained, and in 2008, **1,645**.[5] However, since 2009, when the country hosted an estimated undocumented population of 30,000-50,000, there has been a clear upward trend in these annual numbers.[6] The country placed **1,742** people in immigration detention in 2009; **1,810** in 2010; **1,941** in 2011; **2,564** in 2012; **2,893** in 2013; **3,201** in 2014; and **3,524** in 2015.[7]

In 2014, Sweden apprehended nearly 73,000 undocumented non-citizens; some 15,000 were ordered to leave the country; just under 7,000 were returned.[8] The top countries of origin of immigration detainees in 2014 were Somalia (206), Albania (182), Afghanistan (167), Morocco (144), and Georgia (131).[9]

LAWS, POLICIES, PRACTICES

The 2005 [Aliens Act \(2005:716\)](#) regulates the country's migration policy, including conditions for issuance of visa, long-term resident status, work permits, refusal of entry to the country, as well as "coercive" control measures, which include immigration detention and penal sanctions. The Act has been amended several times. The 2012 amendment incorporated the EU Returns Directive.

Deportation and detention were first introduced in Swedish law with the 1914 Deportation Act. The 1927 Aliens Act, along with amendments in 1945 and 1954, broadened the state's detention powers and introduced changes to detention regulations. The 1945 law provided that a migrant could be detained in order to facilitate his deportation while the 1954 law specified the grounds on which a person could be detained. An amendment in 1976 restricted the grounds for immigration-related detention, providing that a person could be detained only if there were reasonable grounds to suspect that the person would abscond or take part in criminal activities, or if a person's identity could not be established.[10] The 2005 Act expanded the range of grounds.

Grounds for detention. Immigration detention (*förvar*) is addressed in Chapter 10 of the 2005 Aliens Act. The Act provides that non-citizens over the age of 18 may be detained when their identities cannot be clearly established; there is no proof of the right to enter or stay in Sweden; or when detention is deemed necessary to carry out an investigation of the right to remain in Sweden. In cases when it appears likely that a person will be refused entry or deported, he or she can be detained if authorities deem him or her to be a flight risk or potentially engaged in criminal activities (Ch. 10, Section 1). According to [Caritas Sweden](#), several of these grounds are ambiguous.^[11]

These grounds apply thus to both asylum seekers and undocumented non-citizens. However in practice asylum seekers in regular procedures constitute a small proportion of migration detainees, less than 4 percent.^[12]

Detaining authorities. The Aliens Act specifies the authorities with decision-making powers and enforcement duties vis-à-vis immigration detention. Authorities empowered to issue detention orders include the [Swedish Migration Agency](#) (formerly the Migration Board), the Migration Courts, and the Migration Court of Appeal (Ch.10, Section 14). The Migration Agency, or *Migrationsverket*, is part of the Ministry of Justice and is responsible for enforcement of detention orders (Ch.10, Section 18).

The Swedish national police can also detain suspected irregular non-citizens. The police must report detentions immediately to the Migration Agency, which must then determine whether such measures are to be continued (Ch.10, Section 17).

Length of detention. The legal limits on the length of detention vary according to the grounds for detention.

Detention for the purposes of investigating the migrant's right to remain in Sweden under Ch. 10, Section 1, para 2(1) of the Aliens Act cannot be longer than 48 hours (Ch. 10, Section 4, para. 1). Detention during the verification of the right of a foreign national to enter or stay in Sweden is to be limited to two weeks, unless there are exceptional grounds for a longer period. People detained awaiting deportation may be detained for two months, though this can also be extended on the basis of exceptional grounds.

Even in cases where there are exceptional circumstances, a person may not be detained for longer than three months. However, if it is likely that an expulsion will take longer because of the lack of cooperation by the non-citizen or delays in receiving necessary documents, detention can be up to 12 months. Detention time limits do not apply in situations where expulsion is sought because of the migrant's criminal activities (Ch. 10, Section 4, para 2).

Children may be detained for 72 hours, subject to renewal of another 72 hours in exceptional circumstances (Ch.10, Section 5).

The overall average length of detention was 16.7 days in 2007 and 20.8 days in 2008.^[13] In 2008, the average length of detention in number of days was 22.1 for men, 15.6 for women and 1.6 for children.^[14]

According to more recent official figures, the average length of detention of all categories of detainees was 13 days in 2009; 11 in 2010; 10 in 2011; seven in 2012, and five in 2013.

Rejected asylum seekers tend to be detained for slightly longer periods on average. The average duration of their detention was 17 days in 2009; 15 in 2010; 13 in 2011; 10 in 2012; and 8 in 2013.^[15] In 2015 Caritas Sweden noted that asylum seekers are generally detained for up to two weeks.^[16]

Procedural standards. Detention orders are to be reviewed within two weeks. Detainees who have already been served with refusal of entry or expulsion order must have their detention reviewed within two months. Detention is to be subsequently reviewed regularly within the same intervals (Ch. 10, Section. 9).

The Aliens Act provides that if a detention order is not reviewed within the prescribed period it should be set aside (Ch. 10, Section. 10). Detainees have access to oral hearing before each review (Ch. 10, Section. 11(1)). The authority or court, which has taken the initial detention decision, is also competent to review the detention (Ch. 10, Section 12).

The Aliens Act provides that migration detainees shall be appointed a public counsel after three days in detention (Ch. 18, Section 1, para. 4). However, as [Swedish Red Cross](#) notes, detainees have access to legal counseling if the Migration Agency or Police consider that they are in need of legal aid.^[17] On the other hand the law does not provide for the right of access to translation services. The Migration Agency claims that detention centre staff members attempt to facilitate with translations where possible.^[18]

There appear to be a number of concerns regarding procedural standards at criminal justice facilities that are used to hold immigration detainees. For instance, during its visit to the country in 2015, the [European Committee for the Prevention of Torture](#) (CPT) interviewed several immigration detainees who said that they were not clearly informed of the reasons why they had been transferred to a prison, the duration of their detention in that facility, or how to challenge this transfer. The committee reported that automatic review of the transfer to the prison was not provided in legislation nor carried out in practice. Further, most of the detainees claimed that they had not received upon admission to a prison any oral or written information about their rights and the house rules. The CPT noted that such information was available but only in Swedish.^[19]

Minors. The Aliens Act describes two situations in which children may be detained for immigration-related reasons ((Ch. 10, Section 2, para. 1 and 2):

(1) When the following three conditions apply: **a.** it is probable that the child will be refused entry or has already been issued a deportation order; **b.** there is an “obvious” risk of absconding; **c.** it is deemed that supervision is not sufficient to carry out the order.

(2) To enforce a refusal of entry or expulsion order in cases where child supervision proved insufficient to enforce a previous order.

Children may not be detained for more than 72 hours or, in exceptional circumstances, for an additional 72 hours (Ch. 10, Section 5).

Children cannot be separated from their guardians by detaining either the guardian or the child. When the child does not have a guardian (an unaccompanied minor) in Sweden, detention may only be applied in exceptional circumstances (Ch. 10, Section 3).

According to the statistics collected by the Migration Agency, 85 children were detained in 2013; 25 in 2012; 32 in 2011; 21 in 2010; and 37 in 2009. Of these, 14 were unaccompanied in 2013, 18 in 2012, four in 2011, and one in 2009.^[20] The figures provided by the Swedish Police differ from these collected by the Migration Agency; it is not clear whether they should be added up. According to the Police 25 children were detained in 2014, 28 in 2013, 50 in 2012, while 41 in 2011.^[21] According to Caritas Sweden, in 2015 80 children were detained, of whom 17 were unaccompanied.^[22] (As noted in the section below on “Data discrepancies,” the Global Detention Project has received contrasting statistics from official sources concerning the number of minors detained annually.)

Alternatives to detention. The Aliens Act provides one non-custodial alternative measure to detention, “supervision” (*uppsikt*). Both adults and children may be placed under “supervision,” which entails an obligation to report to the police or to the Swedish Migration Agency regularly. A foreign national’s passport may also be confiscated for the duration of the supervision period (Ch.10, Sections 6-8).

The Migration Agency states that supervision provides advantages to both migrants and the government. Reporting involves minimal costs and less administrative burdens.^[23] However, while the Aliens Act requires states to assess the feasibility of supervision with respect to migrant children (Ch. 10, Section, para. 1(3) and 2(2)), such an explicit obligation is not laid down with respect to adults.

According to official figures, in 2013 405 migrants were afforded reporting obligations; 396 in 2012; 289 in 2011; 270 in 2010; and 288 in 2009. The majority of those given alternatives are rejected asylum seekers, who accounted for 275 in 2013, 269 in 2012, 220 in 2011, 160 in 2010, 178 in 2009. A small proportion were children; 20 in 2013, 30 in 2012, 15 in 2011, 29 in 2012, 20 in 2009. According to Caritas, in 2015 supervision was provided in 421 cases.^[24]

Supervision orders are reviewed within six months following the decision. Supervision ceases immediately if the grounds for detention are no longer valid (Ch. 10, Section 9, para. 2 and 4).

Data discrepancies. There are considerable discrepancies in statistics concerning the number of people detained each year in Sweden. According to a report from the European Commission’s European Migration Network, Sweden detained 81 asylum seekers in 2013, 87 in 2012, 87 in 2011, 89 in 2010, and 135 in 2009.^[25] In contrast, in response to a joint Access Info-Global Detention Project questionnaire, Sweden’s Migration Agency provide the following numbers of detained asylum seekers: 2,569 (2012), 2,508 (2011), and 2,409 (2010).^[26]

Similarly, the GDP has received contrasting statistics on the numbers of children placed in immigration detention. According to an October 2015 email from the Migration Service to the Global Detention Project, a total of 41 minors were detained in 2011 and 50 in 2012.^[27] However, in response to an earlier request sent jointly by Access Info-Global Detention Project, the Migration Agency reported that 62 minors had been detained in 2011 and 61 in 2012.^[28] Interestingly, the 2015 letter from the Migration Service appears to state that Sweden does not have disaggregated statistics on accompanied and unaccompanied minors, while the response to the joint Access Info-Global Detention Project questionnaire provided disaggregated numbers.

Criminalization. Chapter 20 of the Aliens Act sets out migration-related criminal sanctions. Non-citizens may be fined or sentenced to one-year imprisonment for irregular entry into the country (Ch. 20, Section 4). Migrants who stay in Sweden without permission are liable to a fine. Non-citizens who stay in the country despite the entry ban may be sanctioned with a prison sentence up to a year or a fine (Ch. 20, Section 1-2).

Privatization, outsourcing, and shifting detention authorities. Sweden is one of the very few countries to have completely reversed course on detention outsourcing after private contractors caused widespread criticism.^[29] The shift away from private management was also accompanied by a shift in government agencies responsible for immigration detainees, from the police to the Migration Board (now the Migration Agency), which reflected a growing recognition at the time (in the mid-1990s) that immigration detainees were not criminal inmates and thus required separate treatment.

Until 1997, Sweden's immigration detention centres were under the responsibility of the federal police, who contracted out the daily operations of the facilities to private security companies.^[30] Early reports on these centres by supra-national bodies like the CPT generally commended operations at these centres.^[31]

By the mid-1990s, however, the situation had changed dramatically as Swedish media and human rights groups reported instances of violence, hunger strikes, suicide attempts, and growing unrest at detention facilities. "Human rights watch dogs criticized the lack of knowledge and experience of contractors in their work with asylum seekers and also the lack of transparency in management of the centres. The police were criticized for incidents of forced and occasional violent deportations."^[32]

The Swedish government ordered an inquiry into detention and deportation practices, leading to the introduction of significant reforms in immigration policy, which came into force in 1997. As part of the reforms, the government removed privately contracted security companies from immigration detention centres, transferred responsibility of the centres to the Migration Board, mandated that qualified health professionals be available, and decreed that facilities used for administrative detention not resemble prison cells.^[33]

Discussing the government's reason for supporting the reforms, Anna Wessel, who was appointed head of the Migration Board in 1997, said, "It was an ambition from the government that the treatment of the detainees should also reflect the fact that they were not criminals so that we could not enforce limitations on their civil rights more than was necessary to obtain the purpose of detention. Apart from the fact that

they cannot leave the premises they are entitled to the same rights as any other person would be ... which means we have to guarantee that they can have contact with the outside world, they have freedom of information. We have to ensure that they can have visits from friends and relatives. Any decision that is taken to further restrict their freedom of movement such as, for instance, searching for dangerous objects or drugs or alcohol is a decision that can be appealed with the local Administrative Board. We have also opened up the detention center for regular visits from the non- governmental organisations.”[34]

In the years immediately after these reforms were implemented, there were reportedly fewer incidents of self-harm and no major incidents of violence at Sweden’s immigration detention facilities.[35] In 1999, the CPT reported that “the most significant change at the centre concerned staff; at the time of the 1998 visit, it was no longer staffed by the police, but by Immigration Board personnel. The delegation observed that staff appeared to be attentive to the needs of inmates and were well equipped to perform their duties vis-à-vis detained foreigners (e.g. as regards knowledge of languages).”[36]

In a 2000 study on alternatives to detention and best practices in detention, the Refugee Council of Australia cited the “The Swedish Model of Detention” as an exemplar. The Refugee Council explained that Sweden had been able to implement humane practices “not by increasing security and secrecy, but by increasing consultation and access for NGOs, researchers and the media; the removal of companies running the detention centres, who don’t have the experience in the sensitive issues involved in working with asylum seekers; and by ensuring all detainees are treated with dignity and fairness, are aware of their rights and have the right to appeal.”[37]

DETENTION INFRASTRUCTURE

Immigration detention estate. As of 2015, Sweden operated five dedicated detention centres, which were located in Gävle, Märsta (near Stockholm Arlanda airport), Flen, Kålleröd, and Åstorp. The total capacity of these facilities was 255.[38] In addition to these facilities, immigration detainees can be held for short periods at police stations and in specially designed units located in some of the country’s prisons.

Pursuant to the Aliens Act, people detained for immigration-related reasons are to be kept in premises that have been specially designed for this purpose (Ch. 11, Section 2, para. 1). The Swedish Migration Agency is responsible for these premises and enforcement of detention orders (Ch. 10, Section 18 and Ch. 11, Section 2, para. 1). The agency manages the detention centres.

The size and total capacity of Sweden’s dedicated immigration detention estate, which is comparatively smaller than many of its European neighbours, has fluctuated in recent years. During 2008, detention capacity was raised from 150 at the beginning of the year to 185 at the end of the year, and rate of usage of detention space was correspondingly lowered from 109.5 percent to 85 percent of capacity. Overall in 2008, Swedish detention facilities operated at 96.6 percent of capacity.[39]

In contrast between 2005 and 2006, total detention capacity was reduced from more than 200 to 125 in anticipation of a lower required capacity due to the entry into force in 2006 of the new Aliens Act, which broadened the scope for admissible residence claims.^[40] However, by the end of 2008, total detention capacity had risen again, to 185 places.^[41]

Conditions of detention. The Aliens Act provides a number of specific rules for how detention centres are to be operated and the appropriate environments for different detainees. Detention facilities are to be organized in such a way as to cause the least amount of infringement of detainees' integrity and rights (Ch. 11, Section 1). Non-citizens are to be informed of the rules applicable in their place of detention (Ch. 11, Section 1, para. 1). They are to have access to recreation activities, physical training, and outdoor exercises. Children in detention are to have an opportunity to play and access to activities appropriate for their age. Families are to be accommodated together (Ch. 11, Section 3). Detainees must be able to receive visits and have contact with the outside world, except where it would hamper carrying out detention in a particular case. If necessary for security reasons, visits may be monitored. Visits conducted by a public counsel or a member of the Swedish Bar may only be monitored if the detainee specifically requests it (Ch. 11, Section 4).

Under the Aliens Act immigration detainees shall have access to the same level of health and medical health care as applicants for international protection. Detainees who need hospital care during the period of detention shall have access to such treatment (Ch. 11, Section 5). Health care is covered if it cannot be deferred, which includes care and treatment of diseases and injuries in cases where even a moderate delay can be expected to result in serious consequences for the patient. Preventive child and maternity care and care of communicable diseases are free of charge. However detainees pay around 5 Euros for visits to doctors in the public primary care and for the medical treatment given after referral of such physician.^[42]

The Aliens Act permits placing adult detainees in isolation if it is necessary for order and security in the detention centre or if the person poses a serious danger to himself or others. If the non-citizen is to be kept separate because he is a danger for himself, he shall be examined by a doctor as soon as possible. The decision to put migrant in isolation is taken by the Migration Agency and shall be reviewed every third day (Ch. 11, Section 7).

In its 2014 annual report, the Migration Agency gave a detailed description of its detention facilities. All five detention centres have separate sections for women and families. Usually there are 2-4 detainees per cell; only at Märsta and Flen there are single cells. There are also some 6-person cells. Families are normally placed in their own 4-persons room. Unaccompanied children are placed separately from adult detainees but they can share common areas if they wish to. Children are normally placed with their parents. There are no childcare facilities in detention centres. Sometimes only one parent is detained while the rest of the family is placed in non-secure accommodation. Detainees have the possibility to be outdoors yard at least three hours per day. Detainees can move freely within the centres.^[43]

In December 2015, Caritas Sweden observed that there had been no reports of overcrowding in detention facilities during the year. The Märsta detention facility has the highest rate of use (at over 90 percent of capacity, while 72 percent was the

national average in 2012). The detention centres in Flen and Gävle tend to be used when there is insufficient space in Mårsta.[44]

In May 2015 the European Committee for the Prevention of Torture (CPT) visited the immigration detention centre in Mårsta. The centre consists of three units, of which one was used for immigration detention (unit 1), another, called transit unit (unit 3) was used for persons awaiting deportation or transfer to another facility, while the third one (unit 2) was closed for renovation. With a capacity of 75, the Mårsta facility is the biggest centre in Sweden. At the time of the CPT's visit, the centre confined 42 immigration detainees, including four women.[45]

The committee did not receive any allegations of ill-treatment by staff and most of the foreign nationals interviewed by the delegation indicated that the overall atmosphere was adequate. The CPT found that material conditions were generally of a high standard. The cells were sufficiently spacious (confining up to three persons, measuring around 15 square meters), bright and with adequate heating and ventilation. During the day detainees could move freely within their units. Unit 1 had a large recreational area with sofas, a TV set and board and computer games. There was also a computer room with Internet access, indoor gym, and a small library with books in different languages.[46]

On the other hand, the CPT noted several shortcomings with respect to access to the health care. The Mårsta detention centre did not have on-site health care professionals. Health-care services to the detainees were provided by a local health centre. A general practitioner visited the centre once per week, while a nurse three times per week. However, there were no established visiting hours, both medical staff planned their visits based on the number of detainees registered for consultation. The CPT noted that such an arrangement implied that access to health-care personnel was filtered by the detention personnel who asked the detainees about their reasons for seeing the health personnel. Further, the committee found that despite its previous recommendations systematic medical screening upon arrival to Mårsta detention facility was not in place and there were gaps in terms of medical confidentiality.[47]

During the CPT's 2009 visit, Sweden received a favourable review of its detention infrastructure, which led to its characterisation as a European role model (Le Figaro 2009). The CPT, in its preliminary observations, noted that there were no allegations of abuse and that detention centre staff were sufficient in number and skills and that "many detainees interviewed spoke positively about the staff." In terms of material conditions, the CPT noted that the centres in Mårsta and Gävle "were of a very high standard" and offered a broad range of activities to detainees within the centre (CPT 2009).

The use of penal facilities. The Aliens Act also provides for the use of penal facilities for immigration enforcement purposes. The Migration Agency may place adult non-citizens in prisons, remand prisons, or police arrest facilities if the non-citizen is expelled for having committed a criminal offence, he is being held in isolation in dedicated detention centre and cannot be held there anymore for security reasons, or for "some other exceptional grounds." In the last two cases, the migration detainee is to be confined separately from prisoners (Ch. 10, Section 20).

In January 2015 the country opened two special units for immigration detainees in the Norrtälje and Storboda prisons. The most often used for this purpose appears to be the special unit at Norrtälje prison, which has 32 single cells. At the time of the CPT's visit in May 2015 the unit was at capacity. When there are no available places in Norrtälje, migrants are either confined in the special unit in Storboda or at another penitentiary. At the time of the CPT's visit, 13 immigration detainees were awaiting transfer to Norrtälje from a remand prison.[48]

Several migrants detained in Norrtälje complained to the CPT that at times they were locked up in their cells for 23 hours a day for up to 3 days in a row as an unofficial collective punishment for a fight between inmates. The CPT stressed that any disciplinary sanction should result from disciplinary procedures rather than taking form of an unofficial sanction. It reminded the authorities that collective punishment is unacceptable.[49]

The CPT recommended the country to put an end the practice of confining migrants in penitentiary facilities and place them in dedicated immigration detention facilities. Pending this the Committee recommended Sweden to ensure that non-citizens transferred to the special unit at Norrtälje prison are afforded organized activities, including work, education, and sport.[50]

Cost of detention. According to the figures provided by the Migration Agency, in 2013 one day of detention per person was on average 420 Euro. In 2013, the Migration Board spent 28.7 million Euros on immigration detention, of which 20.7 million for staff, 5.1 million for food and accommodation, 2.4 million additional costs like technical tools, 404,000 for medical care, and 67,000 for legal assistance.[51]

The Aliens Act provides that immigration detainees shall have the same daily allowances as asylum seekers accommodated in the reception centres (Ch. 11, Section 13).

Endnotes

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