

**BEING AN INCLUSIVE UNIVERSITY FOR REFUGEE STUDENTS:  
CONCEPTS, METHODS AND TOOLS**

*FACTSHEET ON LEGISLATION*

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## European refugee law

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## EU common policy on international protection

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- Art. 3(2)TEU (EU's objectives): «The Union shall offer its citizens an area of freedom, security and justice without internal frontiers, in which the free movement of persons is ensured in conjunction with appropriate measures with respect to external border controls, asylum, immigration and the prevention and combating of crime»
- Art. 78 TFEU: «The Union shall develop a common policy on asylum, subsidiary protection and temporary protection with a view to offering appropriate status to any third-country national requiring international protection and ensuring compliance with the principle of non-refoulement. This policy must be in accordance with the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees, and other relevant treaties»
- Article 19(2) of the EU Charter of Fundamental Rights (principle of non-refoulement): «No one may be removed, expelled or extradited to a State where there is a serious risk that he or she would be subjected to the death penalty, torture or other inhuman or degrading treatment or punishment»

### Principle of non-refoulement

#### Protection of refugee against a specific risk of persecution

«No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion»

*Geneva Convention*

«No State Party shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture»

*UN Convention against torture (case-law of the European Court of Human Rights)*

## Forms of international protections under EU law

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### 3 forms of international protection:

Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 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



1. asylum

2. subsidiary protection

Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof



3. temporary protection

## General Notions and Definitions

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### Asylum seeker

Someone who claims to be a refugee but has not yet been recognised as such.

Not every asylum-seeker will ultimately be recognized as a refugee, but every refugee in such countries is initially an asylum-seeker.

### Refugee

*«Any person who owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it»*

Convention relating to the Status of Refugees (Geneva Convention), 1951

### Person eligible for subsidiary protection

*«Third-country national or a stateless person who does not qualify as a refugee but in respect of whom substantial grounds have been shown for believing that the person concerned, if returned to his or her country of origin, or in the case of a stateless person, to his or her country of former habitual residence, would face a real risk of suffering serious harm»*

Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011

Serious harm consists of:

- Death penalty or execution
- Torture or inhuman or degrading treatment or punishment of an applicant in the country of origin
- Serious and individual threat to a civilian's life or person by reason of indiscriminate violence in situations of international or internal armed conflict

## Temporary protection

Temporary protection Directive (Directive 2001/55/EC): notion of "displaced persons":

*«TCN or stateless persons who have had to leave their country or region of origin, or have been evacuated, in particular in response to an appeal by international organisations, and are unable to return in safe and durable conditions because of the situation prevailing in that country, who may fall within the scope of Article 1A of the Geneva Convention or other international or national instruments giving international protection, in particular:*

- i. persons who have fled areas of armed conflict or endemic violence;*
- ii. persons at serious risk of, or who have been the victims of, systematic or generalized violations of their human rights»*
- iii.*

Exceptional measure aiming to provide immediate and temporary protection in the event of a mass influx or imminent mass influx of displaced persons coming from a specific country or geographical area and unable to return to their country of origin

The legal framework defined by the Directive must be activated by a Council Decision which:

- establishes the existence of a mass influx of displaced persons
- describes the specific groups of persons to whom the temporary protection will apply
- sets the date on which the temporary protection will take effect

The scope is further defined in the Council Decision (Council Decision (EU) 2022/382 of 4 March 2022 establishing the existence of a mass influx of displaced persons from Ukraine)

### **Duration**

One year long (early termination decided by a Council decision which establishes that “the situation in the country of origin is such as to permit the safe and durable return of those granted temporary protection with due respect for human rights and fundamental freedoms and Member States' obligations regarding non-refoulement”)

Automatically extension for further periods of 6 months for a max. of 2 years

Further extension for up to a third year may be decided by the Council

## EU common policy on international protection

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Common procedures for granting and withdrawing international protection: Directive 2013/32/UE

- application must be examined individually, objectively and impartially (personal interview)
- legal assistance and interpretation support
- right to an effective remedy before a court or tribunal against the decision taken on application for international protection

Reception conditions for applicants for international protection: Directive 2013/33/UE

- the applicant is allowed to stay on the territory of the Member State while his or her application is pending or being examined

Criteria 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: Regulation 604/2013 (Dublin III Regulation)

- family members beneficiaries of or applicants for international protection
- possession of a valid residence document
- first country of arrival

[The role of **mutual trust** between MS → Presumption of compliance with fundamental rights:

“[The EU] legal structure is based on the fundamental premiss that each Member State shares with all the other Member States, and recognises that they share with it, a set of common values on which the EU is founded, as stated in Article 2 TEU. That premiss implies and justifies the existence of mutual trust between the Member States that those values will be recognised and, therefore, that the law of the EU that implements them will be respected[...]

The principle of mutual trust between the Member States is of fundamental importance in EU law, given that it allows an area without internal borders to be created and maintained. That principle requires, particularly with regard to the area of freedom, security and justice, each of those States, save in exceptional circumstances, to consider all the other Member States to be complying with EU law and particularly with the fundamental rights recognised by EU law (see, to that effect, judgments in *N. S. and Others*, C-411/10 and C-493/10, EU:C:2011:865, paragraphs 78 to 80, and *Melloni*, EU:C:2013:107, paragraphs 37 and 63).

Thus, when implementing EU law, the Member States may, under EU law, be required to presume that fundamental rights have been observed by the other Member States, so [...] save in exceptional cases, they may not check whether that other Member State has actually, in a specific case, observed the fundamental rights guaranteed by the EU” (Court of Justice, Opinion 2/13)]

Dublin transfers must respect fundamental rights

Art. 3(2) Regulation 603/2013: no transfer when «there are substantial grounds for believing that there are systemic flaws in the asylum procedure and in the reception conditions for applicants in that Member State»

## Residence Permit

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Refugee status (and their family members)

A renewable residence permit valid for at least 3 years

Subsidiary protection beneficiaries (and their family members)

A renewable residence permit valid for at least 1 year and, in case of renewal, for at least 2 years

Temporary protection

Residence permits for the entire duration of the protection

## Freedom of movement (International Protection Beneficiaries)

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EU asylum law + EU law on free movement of Third Country Nationals (TCN): like other TCN legally residing, they can move to another Schengen State for a period up to 90 days in any 180-day period

Status of long-term residents TCN (Directive 2003/109):

- i. 5 years lawful and uninterrupted stay in a Member State
- ii. stable and sufficient resources to maintain himself/herself and the members of his/her family, without recourse to the social assistance system of the Member State concerned
- iii. health insurance

Permanent status

Right to reside in another Member States for a period exceeding 3 months (→ also to exercise an economic activity)

The scope of Directive 2003/109 is extended to international protection beneficiaries

## Economic and social rights

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### International protectional beneficiaries

- Access to **employment and self-employed activities**, education opportunities for adults, vocational training (including training courses, practical workplace experience and counselling services afforded by employment offices) **under the same conditions as nationals**
- Application of national law on remuneration, access to social security systems and other conditions of employment
- Access to **education**:
  - i. full access to education for all minors, **under the same conditions as nationals**
  - ii. access to education for adults **under the same conditions as third-country nationals legally resident**
- Access to **social welfare under the same conditions as nationals**

MS may limit social assistance granted to subsidiary protection beneficiaries to core benefits (→ at least minimum income support, assistance in the case of illness, or pregnancy, and parental assistance)

- Access to **healthcare under the same conditions as nationals**

Under the same eligibility conditions as nationals, adequate healthcare to beneficiaries with special needs (such as pregnant women, disabled people, victims of torture, rape or other serious forms of psychological, physical or sexual violence or minors who have been victims of any form of abuse, neglect, exploitation, torture, cruel, inhuman and degrading treatment or who have suffered from armed conflict)

- Access to **accommodation, under the same conditions as third-country nationals legally**

**Resident**

## Temporary protection beneficiaries

- Access to employment and self-employed activities, education opportunities for adults, vocational training and practical workplace experience under the same conditions as nationals
  - i) For reasons of labour market policies, MS may give priority to EU citizens, citizens of States bound by the Agreement on the European Economic Area and legally resident TCN who receive unemployment benefit
  - ii) Application of national law on remuneration, access to social security systems and other conditions of employment
  
- Access to education: full access to education for all minors, under the same conditions as nationals. Access to education for adults may be allowed by the MS
- Access to suitable accommodation
- Necessary assistance social welfare and means of subsistence
- Medical care → least emergency care and essential treatment of illness

## Family reunification

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### International protection beneficiaries

**Protection of family unity.** *Family members* means, in so far as the family already existed in the country of origin, the following members who are present in the same Member States (MS) in relation to the application for international protection:

- the spouse or his/her unmarried partner in a stable relationship, where the law or practice of the MS concerned treats unmarried couples in a way comparable to married couples under its law relating to third-country nationals
- the unmarried minor children of the couple
- the father, mother or another adult responsible for the international protection beneficiary when that beneficiary is a minor and unmarried

MS may decide that this provision also applies to other close relatives who lived together as part of the family at the time of leaving the country of origin, and who were wholly or mainly dependent on the international protection beneficiary at that time.

### Temporary protection beneficiaries

In cases where families already existed in the country of origin and were separated due to circumstances surrounding the mass influx the following members are considered to be part of a family:

- the spouse or his/her unmarried partner in a stable relationship, where the law or practice of the MS concerned treats unmarried couples in a way comparable to married couples under its law relating to third-country nationals
- their unmarried minor children of the couple

MS may decide that this provision also applies to other close relatives who lived together as part of the family unit at the time of the events leading to the mass influx lived together, and who were wholly or mainly dependent on the temporary protection beneficiary at that time → case-by-case decision taking into account the extreme hardship they would face if the reunification did not take place

## A. Project's Countries Factsheets

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## Germany

If you have fled to Germany for political or humanitarian reasons and would like to stay here, you can apply for asylum. If your asylum application is accepted, you will be issued a residence permit.

In Germany, there are three main forms of protection for refugees. As an asylum seeker, you may be recognised as :

- being entitled to asylum,
- refugee status
- or
- subsidiary protection.

In addition, the BAMF can also issue you a National Ban on Deportation ("nationales Abschiebungsverbot"). In this case, you will also receive a residence permit.

### Entitlement to Asylum

According to Article 16a of the Basic Law, **asylum is granted to individuals who are politically persecuted in their home country by the state or a state-related organisation.** Political persecution refers to the situation in which a person is at risk or imprisoned because of his/her "race," religion, nationality, political belief, or association with a particular social group. **However, recognition as being entitled to asylum is only possible if you have not entered Germany via a safe third country.** Since Germany is surrounded by European countries (i.e. safe third states), recognition is only possible if you directly travel to Germany by plane.

**Recognised asylum seekers are issued residence permits which are valid for three years. If the situation in their home country does not improve, the residence permit will be extended for another three years.** After three years (at the earliest), under certain conditions, you can apply for and obtain a **Permanent Residence Permit** ("unbefristete Aufenthaltserlaubnis" or "Niederlassungserlaubnis").

**Recognised asylum seekers are entitled to a "Refugee Travel Document"** ("GFK-pass"). You can use this passport to travel abroad. You are not permitted to go to your home country, however, as you may lose your German residence permit.

*As a person entitled to asylum, you also have the following rights:*

- **You can bring your spouse and minor children to Germany.** As an unmarried minor, you can bring your parents to Germany. (Family Reunification)
- **You are allowed to work. If you do not have a job, you will receive unemployment benefit II or social assistance. The Jobcentre helps you to find a job.**
- **You are entitled to child and parental allowance.**
- **You are allowed to attend an integration course**
- **You can study or take part in vocational training programmes.**

## Germany

*Important:* You will not be recognised as a refugee if there is another region in your homeland you can reach legally and live in safety.

People who have committed war crimes or severe non-political offences (outside Germany) which violate the objectives and principles of the United Nations, may not be granted refugee protection. The same applies to people who have been sentenced to imprisonment for non-political crimes if they are perceived as a threat to Germany or the general public.

### Recognition as a Refugee

**Recognised refugees** (§ 3 par.1 Residence Act) **have the same rights as those entitled to asylum. Refugee status is granted to individuals who have been persecuted for their "race", religion, nationality, political beliefs or association to a particular social group in their home country.** A person may be subject to persecution by state or non-state groups, as long as the state in their home country does not protect them from harm. You may be granted refugee status, even if you have entered Germany via a safe third country; unlike entitlement to asylum, for a refugee status, **you should not have directly arrived in Germany by plane.**

Recognised refugees are issued a **residence permit, which is valid for three years. If the situation in their home country does not improve, the residence permit will be extended for another three years. After three years (at the earliest), under certain conditions, you can apply for and obtain a permanent residence permit** ("unbefristete Aufenthaltserlaubnis" or "Niederlassungserlaubnis").

Recognised refugees are also entitled to a **"Refugee Travel Document"** ("GFK-Pass"), with which they can travel abroad. As a recognised refugee, however, **you cannot go to your home country**, as you may lose your German residence permit.

**Recognised refugees are also entitled to the following rights:**

- **You are allowed to bring your spouse and minor children to Germany.** As an unmarried minor, you can have your parents join you.
- **You are permitted to work.** If you do not have a job, **you will receive unemployment benefit II or social assistance, and the jobcentre will help you to find a job.**
- **You are entitled to child and parental allowance.**
- **You can attend an integration course.**
- **You can study or participate in a vocational training programme.**

Information retrieved online at:

[Federal Office for Migration and Refugee](#)

[Hand Book Germany](#)

Germany

## Subsidiary Protection

Individuals **who are not recognised as being entitled to asylum or refugee status may be granted subsidiary protection** (§ 4 par. 1 Asylum Act). **Subsidiary protection can apply to individuals who do not personally face persecution but are in grave danger**, e.g. due to war or severe human rights abuses (such as death penalty, torture, inhumane treatment).

Individuals entitled to subsidiary protection **receive a residence permit which is valid for one year. The permit can be extended for two more years if the situation in the home country does not improve. After five years** (at the earliest), under certain conditions, you can apply for and **obtain a permanent residence permit** ("unbefristete Aufenthaltserlaubnis").

The legal status of subsidiary protection beneficiaries is not the same as that of refugees or people with asylum rights. As an individual entitled to subsidiary protection, you have no claim to a "Refugee Travel Document" ("GFP-Pass").

*As a beneficiary of subsidiary protection, you have the following rights:*

- **You are entitled to work.** If you do not have a job, you will receive unemployment benefit II or social assistance; and the Jobcentre will help you to find a job.
- **You are entitled to child and parental allowance.**
- **You can attend an integration course.**
- **You are allowed to study and participate in vocational training programmes.**

## National ban on deportation

**If you are not recognised as a person entitled to asylum, a refugee status or subsidiary protection, it will still be examined whether you may stay in Germany for other reasons.** In principle, you should not be deported if you are at risk of human rights abuse or may face a serious danger to your life, limb or freedom in your home country (§ 60 (5) or (7) Residence Act). That may be the case, for instance, if you have a serious illness that cannot be treated in your home country. **People who have been issued a national ban on deportation will be granted a residence permit which is valid for one year. If the situation does not improve, the permit will be extended. After five years** (at the earliest) and under certain conditions, **you can apply for and obtain a permanent residence permit** ("unbefristete Aufenthaltserlaubnis").

You are **not** entitled to receive a "Refugee Travel Document" (GFK-passport).

*With a national ban on deportation, you have the following rights:*

- **You can apply for a work permit at the Immigration Office.** If you do not have a job or are not allowed to work, you will receive state support.
- **You may join a vocational training programme if the Immigration Office approves it.**
- **You are allowed to study.**
- **You can apply for possible free spots in an integration course. You do not, however, have any legal claim to be included.**

## Italy

International protection is a protection that Italy gives to people who are forced to flee their country. There are various types of protection: **refugee status, subsidiary protection and special protection.**

*There are also some specific cases for which one is not granted international protection, but can get a permesso di soggiorno.*

### Status di Rifugiato/ Asilo (Refugee status / Asylum)

The *status di rifugiato* is granted to people who are persecuted or at risk of being persecuted in their country of origin because of their ethnicity, religion, nationality, belonging to a specific social group or political views.

With status di rifugiato:

- you obtain a **permesso di soggiorno for 5 years, which can be renewed, and a travel document to travel outside Italy**
- you can enroll in school and can work
- you can apply for **ricongiungimento familiare (family reunification)**
- you can apply for citizenship and for a **European Union residence permit for long residence after 5 years of stay in Italy**

### Protezione sussidiaria (Subsidiary protection)

*Subsidiary protection* is granted to people who do not qualify for status di rifugiato, but could still be subjected to torture, other forms of inhuman treatment, death penalty, or whose life would be threatened by war in their country of origin.

With protezione sussidiaria:

- you obtain a **permesso di soggiorno for 5 years, which can be renewed, and a travel document to travel outside Italy**
- you can enroll in school
- you can work and convert your permesso into a **permesso di soggiorno per lavoro**
- you can apply for **ricongiungimento familiare**
- you can apply for a **European Union residence permit for long-term residents after 5 years of stay in Italy**
- you can apply for citizenship after **10 years of stay in Italy**

Italy

## Protezione speciale (Special protection)

**Sometimes the applicant does not obtain the status di rifugiato or protezione sussidiaria, but still cannot return to his country of origin due to serious dangers such as persecution or torture.**

In this case, the examining commission (Commissione Territoriale per il Riconoscimento della Protezione Internazionale, or CTRPI) can issue a permesso di soggiorno per protezione speciale.

With protezione speciale:

- **2 year residence permit, renewable if the beneficiary still requires protection.**
- **The beneficiary can apply for a travel permit for foreigners, if he/she is unable to obtain a passport from the diplomatic authorities of his/her country.**
- **The beneficiary can work legally and can convert the residence permit for special protection into a residence permit for work purposes.**
- **The beneficiary can also study as the law does not directly prohibit it**
- **The beneficiary can register the residence at his/her local municipality.**

## Casi speciali (special cases)

**Casi speciali are indicated to the Questura by the social services or organisations that deal with protection and assistance of newcomers, or by the Procuratore when the person is part of a criminal trial.**

Special cases **are not international protection cases** and therefore are not obtained by applying for international protection. However, in some cases, even the Commissione Territoriale that examines requests for international protection can report a potential caso speciale to the Questura.

The types of residence permits for special cases are:

**Per protezione sociale (social protection):** the person victim of severe violence or exploitation by a criminal organisation, for example a victim of human trafficking or prostitution, can obtain a permesso per protezione sociale. **This permesso: is valid for 6 months and you can renew it for 1 year or for longer periods if the danger still exists allows you to study and work and can be converted into a permesso di soggiorno per lavoro or studio (work or study)**

**Per vittime di violenza domestica (victims of domestic violence):** the person who suffers violence within its family and reports his aggressor can obtain a permesso di soggiorno per vittime di violenza domestica. **This permesso: is valid for 1 year and allows you to study and work and can be converted into a permesso di soggiorno per lavoro or studio (work or study)**

Italy

**Per particolare sfruttamento sul lavoro (exploitation at work):** the person without a residence permit who is exploited by his employer obtains this type of permesso if he decides to report the employer and the situation of exploitation. **This permesso: is valid for 6 months and is renewable for 1 year or for a longer period based on the duration of the lawsuit against the employer. It allows you to work and can be converted into a permesso di soggiorno per lavoro**

## Other types of permesso di soggiorno

*You can also apply for a permesso di soggiorno:*

**Per calamità (calamity):** if you are unable to return to your country **due to a natural disaster** such as a hurricane, flood or earthquake, you can apply for a permesso di soggiorno per calamità, **valid for 6 months**. If at the end of the 6 months it is still not possible to return to your country due to the natural disaster, the permesso can be renewed. You can work for the duration of the permesso, but it cannot be converted into a permesso di soggiorno per lavoro.

**Per cure mediche (medical treatment):** if you are **seriously ill** and cannot return to your country due to your health conditions, you can apply for a permesso di soggiorno per cure mediche. **To apply you need hospital certificates showing that your health condition is really serious**. The permesso is valid for a **maximum of 1 year** and is renewable if the health conditions continue to be serious. Pregnant women can also get this type of permesso.

Useful documents/links:

[International protection form](#)

[How to apply for international protection](#)

[Free legal assistance](#)

Information retrieved online at:

[Ministero dell'Interno](#)

[Italia Hello](#)

[Ius in Itinere](#)

# Sweden

**Sweden will grant a residence permit to a person who is a refugee in accordance with the UN Convention, and also to a person in need of “subsidiary protection” in accordance with joint EU regulations.**

Sweden has signed the UN Convention Relating to the Status of Refugees. This means, among other things, that Sweden will examine each asylum application individually.

The individual examination includes taking the applicant's gender identity and sexual orientation (that is, whether the applicant is homosexual, bisexual or transgender) into account.

## Refugee

In accordance with the UN Convention Relating to the Status of Refugees, Swedish legislation and EU regulations, **a person is considered a refugee when they have well-founded reasons to fear persecution due to**

- race
- nationality
- religious or political beliefs
- gender
- sexual orientation, or
- affiliation to a particular social group

A person who is assessed as a refugee **will be granted a refugee status declaration, which is an internationally recognized status, based on the UN Refugee Convention as well as EU regulations.**

Persons with a refugee status declaration are normally given **a residence permit for three years.**

When in Sweden, you should contact the Migration Agency yourself. You can apply for asylum at one of the Migration Agency's application units in Gothenburg, Malmö or Stockholm.

When you apply for asylum **you have to describe who you are**, why you want to apply for asylum and how you travelled to Sweden. If you are unable to hand in any identification documents you have to try to prove who you are in some other way. This you can do, for example, with your birth certificate, family or military registration documents or marriage certificate. **Such documents do not individually prove your identity, but sometimes several documents together are accepted as proof of your identity.**

You should primarily try to support yourself financially while you are waiting for the decision. If you are not earning any money and have no other assets, **you can apply for financial support from the Migration Agency.**

## Sweden

If you have a residence permit for a limited period and you want to remain in Sweden, you must apply for an extension before it expires. **You may be granted an extended residence permit if you still need protection. You may also be granted a residence permit if you have other reasons for remaining in Sweden.**

**A person who seeks asylum may have a right to work without a work permit during the waiting period.**

**A person who has received a rejection to his or her application for asylum can in some cases have the possibility of applying for a work permit without leaving Sweden.**

### **Financial Support**

When you seek asylum you must tell the Migration Agency how much money or other resources you have. If you do not have any own resources **you get daily allowance to cover your daily expenses.**

### ***Conditions for working as an asylum seeker***

In order to have the right **to work while you are an asylum seeker, you must have a certificate (AT-UND) stating that you are exempted from the requirement to have a work permit.**

You are exempted from the requirement to have a work permit if you fulfil the following conditions:

- You provide proper identity papers or in some other way help to prove your identity
- Your application is to be considered in Sweden
- There are solid reasons for your application for asylum. You will not be granted AT-UND if you have been issued a refusal of entry with immediate effect

When you receive a decision on AT-UND, it is directly registered on your LMA card and your employer can check it by scanning the QR code. Your AT-UND status normally lasts until either you are granted a residence permit or until you leave the country.

If you have AT-UND, you can contact the Swedish Public Employment Service (Arbetsförmedlingen) to find a job.

### **Right to healthcare**

When you seek asylum in Sweden, **you are entitled to emergency healthcare and dental care, and health care that cannot wait.** It is the county council/region that decides which type of healthcare you can receive. You are also entitled **to childbirth care, abortion care, advice on contraception, maternity care and healthcare** under the Swedish Communicable Diseases Act (a law intended to prevent the spread of contagious diseases).

## Sweden

### Person in need of subsidiary protection

A person deemed in need of subsidiary protection is one who:

- **is at risk of being sentenced to death**
- **is at risk of being subjected to corporal punishment, torture or other inhumane or degrading treatment or punishment, or**
- **as a civilian, is at serious risk of injury due to armed conflict.**
- **A person who is assessed as in need of subsidiary protection will be granted a subsidiary protection status declaration, which is founded on EU regulations.**

Persons with a subsidiary protection status declaration are normally given a **residence permit for 13 months.**

### Permanent residence permits

A person applying for a **permanent residence permit** in Sweden **must have held a residence permit for at least three years.** For an employee, it is a requirement that she or he must have held a work permit for a total **of four of the last seven years**, be able to support him- or herself financially and be expected to live an orderly life.

In order to be granted a permanent residence permit, **each family member must also meet the requirements, which means that family members aged 18 and over must be able to support themselves financially.**

Information retrieved online at:

[Migration Sverket](#)

# The Netherlands

Asylum seekers may be given asylum in the Netherlands if they need protection from persecution in their own country on religious or ethnic grounds, for instance. The Immigration and Naturalisation Service (IND) assesses whether an asylum seeker needs protection. Special rules apply to unaccompanied foreign nationals under the age of 18. People who are granted asylum get help from the municipality in finding a place to live.

## Refugee

You may be granted a residence permit if you meet one of these conditions:

- In your country of origin, **you have real reasons to fear persecution because of your race, religion, nationality, political convictions or because you belong to a particular social group;**
- You have **real reasons to fear the death penalty or execution, torture or other inhuman or humiliating treatment in your country of origin;**
- You have **real reasons to fear that you will be a victim of random violence due to an armed conflict in your country of origin;**
- **Your husband or wife, partner, father, mother or minor child has recently received an asylum residence permit in the Netherlands**

An asylum application is **free of charge**.

### Procedure

The police (Afdeling Vreemdelingenpolitie, Immigratie en Mensenhandel or AVIM) or the Royal Netherlands Marechaussee (Koninklijke Marechaussee or KMar) takes care of identifying and registering you. An interpreter will translate the conversation (by phone).

*You arrived in the Netherlands by land*

Did you come to the Netherlands by land (through Belgium or Germany)? **Then you apply as an asylum seeker at AC Ter Apel.** There you first fill in a registration form from the IND. The KMar examines whether your documents are genuine. **After you have applied, the Central Agency for the Reception of Asylum Seekers (Centraal Orgaan opvang asielzoekers or COA) will arrange a place for you to sleep, eat and receive medical care.**

*You came to the Netherlands by plane or boat*

Have you applied as an asylum seeker at an airport or seaport in the Netherlands? **Then the KMar usually registers and identifies you and checks your documents.** Afterwards you are taken to the application centre at Schiphol. The IND handles your asylum application there following the border procedure.

### TB Examination

A nurse examines whether you have tuberculosis (TB) and takes an X-ray of your lungs if needed. TB is a contagious, infectious disease. **The TB test usually happens on the day after you register.** You do not need a TB test if you come from a country on this list: Annex Exemption from the TB Test 7144 (pdf, 98 KB). Your asylum procedure starts if you do not have TB, or after you have been treated for TB.

## The Netherlands

### *Reporting Interview*

On day 3 after registering, **you will have a reporting interview**. This is a conversation with an IND staff member. For this interview, the IND uses the information you filled in on the registration form.

### *Rest and preparation period*

After your application interview **you can rest from your journey to the Netherlands**. This period is called the rest and preparation period (rust- en voorbereidingstijd or RVT). **You will usually go to another COA reception centre at a different location**. The COA also provides guidance.

Are there documents important for your asylum application, which you have not yet handed in to the IND? For example, documents about your identity or which support your asylum application? **How you send documents to the IND during the RVT is set out in the information sheet How do you submit your documents**.

You will also get help at the reception centre to prepare yourself for the **General Asylum Procedure (AA)**, free of charge. Staff from the independent human rights organisation, Dutch Council for Refugees (VluchtelingenWerk Nederland or VWN) will give you information about the asylum procedure.

The Council for Legal Aid (Raad voor Rechtsbijstand or RvR) arranges a lawyer for you. This is usually free. The lawyer helps you to prepare your asylum story for the interview with the IND. This applies to adult asylum seekers and to unaccompanied minor asylum seekers. It also applies to your children from 15 years of age who have applied for asylum with you.

**The General Asylum Procedure (AA) applies to most asylum seekers. The AA usually takes 6 days**

Day 1: Detailed interview

Day 2: Discussion of the detailed interview with your lawyer

Day 3: Initial decision: *An IND staff member reads the reports of your interviews with the IND, and your lawyer's response to these reports. Afterwards the IND decides whether you will receive an asylum residence permit. There are 3 possibilities:*

- **You receive a temporary asylum residence permit.** This residence permit is **valid for 5 years**.
- The IND needs **more time to take a decision**. Your procedure will therefore take longer. The IND continues to process your application in the **Extended Asylum Procedure** (Verlengde Asielprocedure or VA).
- **The IND does not plan to give you a temporary asylum residence permit.** This initial decision is set out in a letter and is called an **intended decision**. You will have the opportunity to respond to the intended decision.

Day 4: Response to the decision (viewpoint)

Days 5 and 6: Second decision: *The IND staff member reads your viewpoint. Afterwards the IND looks at whether the intended decision should be changed*

## The Netherlands

**The AA+ is for asylum applications for which the IND has to do more investigation and usually takes 9 days.** The AA+ is also intended for asylum seekers who need more attention because of mental or physical problems. This is what happens on each day of the AA+.

- Days 1 and 2: you have a detailed interview with the IND in which you tell your asylum story.
- Days 3 and 4: you discuss the report of the detailed interview with your lawyer.
- Day 5: intended decision by the IND.
- Days 6 and 7: response to the decision (viewpoint) by your lawyer.
- Days 8 and 9: second decision by the IND.

### You receive an asylum residence permit

- You move to another COA reception centre**
- You are allowed to work**
- You have a right to a home in a municipality.** The municipality where you will reside will look for a suitable home for you. If a home is found, you will leave the COA reception centre.
- Depending on your situation, **you may also have family members come to join you in the Netherlands: family reunification with admitted asylum seekers.** The Dutch Council for Refugees (VWN) can help you with having your family members come to live with you.
- VWN staff will help you to arrange other important matters, for example to find a job or a study programme.**

### You do not receive an asylum residence permit

- You can appeal to a Dutch court. For more information go to Registering an objection or appeal.
- With assistance from COA, you will go to a different reception centre. There you must arrange to return to your country of origin yourself. You must do this within 28 days (departure period). You will not be given a departure period, or you will receive a shorter departure period, if it is immediately clear that your application will be rejected. After the departure period you will no longer have a right to reception.
- Are you an AMV and you will not receive a residence permit? Then you will be entitled to reception for as long as you are a minor and your departure has not yet been arranged.
- The Repatriation and Departure Service (DT&V) will help you to arrange your return. You can also contact the International Organisation for Migration (IOM) for help. The IOM often has consulting hours at the reception centre.
- What if you will not depart on your own initiative, and you do not accept help from the DT&V or other organisations? The DT&V can then arrange your forced departure.

You can always withdraw (stop) your application for an asylum residence permit. **If you withdraw your application at the IND, there are consequences.** You usually may not live in the Netherlands any longer. You have no more right to reception. The Dutch government can also impose an entry ban on you for 2 years.

## The Netherlands

### Collect your residence permit

Sometimes you already received your residence permit right after receiving the formal decision. If not, the IND tries to have your residence permit ready within a few weeks. You will receive a letter indicating when to collect the residence permit at an IND desk.

Make an online appointment to collect your residence permit. The letter tells you where you can collect the permit. This is usually near your place of residence. When you collect the permit, you hand in your Foreign Nationals Identity Document (type W). **Your residence permit is valid for 5 years.**

Always carry your residence permit with you.

### Rights and Obligations

- **Registration with the municipality:** You must register in the Municipal Personal Records Database (BRP) of the municipality where you live.
- **Take out health insurance:** In the Netherlands you are legally required to have health insurance. This allows you to receive medical help. In the COA reception centres, this is arranged for you. However, you must arrange health insurance yourself when leaving the COA reception centre.
- **Civic integration in the Netherlands:** If you have a temporary asylum residence permit, you must take a civic integration course. You need to learn Dutch this way. You will receive a letter from the Education Executive Agency (DUO) on the obligation to integrate.
- **Work:** If you have received a residence permit then you are allowed to work in the Netherlands. The following employment status will appear on your residence document: '*Work allowed free from restrictions. TWV not required*' (in Dutch: '*Arbeid vrij toegestaan. TWV niet vereist*'). This means that you are allowed to work in the Netherlands: you do not need a work permit (TWV). **During the first 6 months of your asylum procedure you are not allowed to work. After 6 months you are allowed to work for 24 out of 52 weeks from the start of your job if:**
  - you are still waiting for a decision;
  - you have a Foreign Nationals Identity Document;
  - your employer has applied for a work permit (in Dutch: TWV)
- **Travelling:** You are allowed to travel abroad if you have a residence permit, for example for holiday or business trip. **You also require a valid passport since a residence permit is not a travel document. If you do not have a passport you can apply for a refugee passport at your municipality.** There is a fee for the application for a refugee passport. For some countries you may also need a visa in addition to a passport.

## The Netherlands

### Subsidiary Protection

**There is only one asylum status in the Netherlands.**

However, there are two different grounds on which this asylum status may be granted (besides family reunification): **refugee status (A-status); and subsidiary protection (B-status).**

In addition to the grounds of Article 15 of the recast Qualification Directive, trauma suffered in the country of origin, as a result of which it is not reasonable to require the asylum seeker to return to his country of origin, falls within the scope of Article 29(1)(b) of the Aliens Act (B-status).

The IND must first examine whether an asylum seeker qualifies for refugee status, before examining whether they should be granted subsidiary protection. **This means that an asylum seeker may only qualify for subsidiary protection in case he or she does not qualify as a refugee under Article 1A of the Refugee Convention.** In case an asylum seeker is granted subsidiary protection, he or she cannot appeal in order to obtain refugee status.

Information retrieved online at:

[Asylum in Europe](#)

[Immigration and Naturalisation Service – Ministry of Justice and Security](#)

## United Kingdom

In UK, the **Home Office** has responsibility for all aspects of immigration, and is directly responsible for policy development. The department dealing with the processing of asylum claims is the UK Visas and Immigration (UKVI). Within the UKVI the directorate dealing with asylum claims is known as the Immigration and Protection Directorate; Asylum Intake and Casework is within that directorate. Responsibility for border control lies with the UK Border Force, an executive agency of the Home Office which combines immigration, policing and customs functions.

### Refugee Status

Refugee status will be granted to an asylum seeker who meets the requirements of paragraph 334 of the Immigration Rules:

An asylum applicant will be granted refugee status in the United Kingdom if the Secretary of State is satisfied that:

- (i) they are in the United Kingdom or have arrived at a port of entry in the United Kingdom;*
- (ii) they are a refugee, as defined in regulation 2 of The Refugee or Person in Need of International Protection (Qualification) Regulations 2006;*
- (iii) there are no reasonable grounds for regarding them as a danger to the security of the United Kingdom;*
- (iv) having been convicted by a final judgment of a particularly serious crime, they do not constitute a danger to the community of the United Kingdom; and*
- (v) refusing their application would result in them being required to go (whether immediately or after the time limited by any existing leave to enter or remain) in breach of the Refugee Convention, to a country in which their life or freedom would be threatened on account of their race, religion, nationality, political opinion or membership of a particular social group.*

#### **As an asylum applicant in the United Kingdom, you have the right to:**

- *be treated fairly and lawfully regardless of your race, gender, age, religion, sexual orientation or any disability*
- *practice your own religion, and you are expected to show respect for people of other faiths*
- *have your application considered fairly and accurately*
- *have access to support and accommodation if you meet the requirements for it*
- *have access to free health care from the National Health Service (NHS)*
- *have legal representation. Free legal help may be available, depending on your income and your case. Your caseworker can tell you more about this*

### Procedure

The rules (Qualification Regulations) that the Home Office use to decide asylum claims say that persecution is an act that is sufficiently serious by its nature or repetition as to constitute a severe violation of a basic human right. To succeed in your asylum claim, you need to show that you have a “**well-founded fear**” of persecution if you were returned to your home country. This means you do not need to show that the persecution would definitely happen, but that there is a real risk it could happen. Having been persecuted in the past does not necessarily mean you will get refugee status. You need to show there is a future risk.

To show this fear is well-founded, you will need to provide evidence.

Applicants are entitled to a **personal interview**, and this is standard practice. There is an initial **screening interview** before the **substantive interview**. Most applicants are given a questionnaire to complete and return prior to the substantive interview. This is not universal and no additional legal help is afforded to those who are required to complete it.

**Interpreters** are required by the Immigration Rules and are provided by the Home Office. There is a code of conduct for these interpreters, which was revised in 2020. If the asylum seeker has a representative present, best practice, and guidance issued to Home Office caseworkers, in the case of interpreting problems, suggests that the representative is permitted to interrupt the interview to raise the problem. Asylum seekers are allowed to take an interpreter of their own choosing to the interview, but there is no public funding for this in most adult cases.

**Audio-recording of interviews is permitted** and should be arranged as a matter of routine where the equipment is available, unless a request has been made in advance by the asylum seeker for the interview not to be recorded. **The recording must be provided to the applicant after the interview. Five working days are allowed to make comments or corrections** before the first instance decision is taken.

Usually, a decision on the application is made within 6 months.

*You will not usually be allowed to work while your asylum claim is being considered.*

**You may be able to get housing and money to support you and your family while you're waiting to find out if you'll be given asylum.**

**This also means your children will go to a free state school and you may get free healthcare from the National Health Service (NHS).**

**You can still apply for short-term support if you've been refused asylum and are preparing to leave the UK.**

For more information on Asylum Support and Short-term support, please, see [here](#).

There is a right to **appeal against an initial asylum decision** under the regular procedure. Appeals are made to the Immigration and Asylum Chamber of the First Tier Tribunal (FTT (IAC)) on both facts and law. This is a judicial body, composed of immigration judges and sometimes non-legal members. The time limit for appealing is 14 days from the date that the Home Office 'sent' the decision. Lodging an appeal suspends removal from the UK, unless the case is certified as 'clearly unfounded'. A fee of £140 (€180) is required for an oral hearing of an asylum appeal in the regular procedure. Applicants do not need to pay if they are receiving asylum support (see Reception Conditions) or if they have public funding to be represented.

## Humanitarian (Subsidiary) Protection

**An asylum seeker who does not meet the criteria for a grant of refugee status will then be considered for humanitarian protection.**

The Immigration Rules cover humanitarian protection in paragraphs 339C and 339CA:

339C. A person will be granted humanitarian protection in the United Kingdom if the Secretary of State is satisfied that:

- (i) they are in the United Kingdom or have arrived at a port of entry in the United Kingdom;*
- (ii) they do not qualify as a refugee as defined in regulation 2 of The Refugee or Person in Need of International Protection (Qualification) Regulations 2006;*
- (iii) substantial grounds have been shown for believing that the person concerned, if returned to the country of return, would face a real risk of suffering serious harm and is unable, or, owing to such risk, unwilling to avail themselves of the protection of that country; and*
- (iv) they are not excluded from a grant of humanitarian protection.*

339CA. For the purposes of paragraph 339C, serious harm consists of:

- (i) the death penalty or execution;*
- (ii) unlawful killing;*
- (iii) torture or inhuman or degrading treatment or punishment of a person in the country of return; or*
- (iv) serious and individual threat to a civilian's life or person by reason of indiscriminate violence in situations of international or internal armed conflict.*

To be granted humanitarian protection, an applicant must therefore establish that they would face a real risk of serious harm if returned to their country of origin. The definition of serious harm is taken almost word-for-word from Article 15 of the EU Qualification Directive.

## Discretionary Leave to Remain

The Secretary of State has the power to grant leave on a discretionary basis outside the Rules from her residual discretion under the Immigration Act 1971.

**Discretionary Leave (DL) is a form of leave to remain that is granted outside the Immigration Rules in accordance with this policy. Applications for DL cannot be made from outside the UK.**

**Discretionary leave to remain in the UK is granted to people who are able to prove to the Home Office that their circumstances are compelling on compassionate grounds or are such that they can be granted leave outside the immigration rules. This can only be approved by the Secretary of State.**

A person can apply for discretionary leave to remain via Article 8 of the European Convention on Human Rights (ECHR), through the argument that his or her removal from the UK will result in a breach of the obligation.

It can only be applied for within the UK and not abroad. The application is intended to cover compassionate and exceptional circumstances and should be used sparingly. It is best for you to seek advice before you make an application; our experts have vast experience in getting various people leave to remain under this category.

A person can leave the UK at any time under Discretionary Leave to Remain as there are no travel restrictions.

For an initial application for discretionary leave, the FLR (O) application form is required.

All information retrieved online at:

[Asylum in Europe](#)

[Free Movement](#)

[Right To Remain](#)

[Uk Government](#)