Coming to Sweden as a relative
– legal certainty in family reunification cases

Summary and recommendations

The Swedish National Audit Office (Swedish NAO) has audited whether the Swedish Migration Agency and missions abroad (Swedish embassies and consulates) operate in a way that ensures that the processing of family reunification cases maintains high legal standards. Family reunification cases refer to residence permits for people who wish to move to a relative living in Sweden. The application must be submitted from the country where the applicant is permanently or habitually resident. The Swedish Migration Agency in Sweden is responsible for the processing and decision-making, but the missions abroad play a central role in the process by checking the documents in the application and interviewing the applicant abroad.

The overall conclusion of the Swedish NAO is that the operations are not conducted in a way that ensures that the processing of family reunification cases maintains a high legal quality. Particularly serious are the shortcomings in the work of the Migration Agency and the missions abroad to establish the identity of the applicant, where the missions abroad assist the Migration Agency. With current procedures, resources and division of responsibilities, no actor fully controls the authenticity of the applicant's documents. Weak quality assurance mechanisms during ongoing processing, inadequate skills supply and savings requirements are contributing factors to the inability to regard the legal quality of the processing as guaranteed. Furthermore, the deficiencies in the Migration Agency's method for monitoring family reunification cases are too great to enable the Agency to use it to measure the legal quality of the processing.

If the processing of family reunification cases is not legally certain and consistent, there is a risk that applicants who are entitled to a residence permit will be refused their application, and conversely that applicants who do not qualify will nevertheless be given a residence permit. The consequence may be that families who have the right cannot be reunited, or a risk for example of sham marriages and human trafficking. Deficiencies in processing can also lead to unnecessarily long waiting times for decisions and increased costs. Ultimately there is a risk that public confidence in migration activities will be adversely affected.

Audit findings

Processing procedures are essentially appropriate but updates of essential elements have been delayed.

The audit shows that the Swedish Migration Agency has designed a processing procedure that in several respects is appropriate, but when it comes to certain essential elements, such as how to assess whether the maintenance requirement is met, updates to the procedure have been delayed, even though the regulatory framework has changed. One consequence of this is that different permit units at the Swedish Migration Agency have developed local procedures and their own practices pending clarification of how new legislation should be interpreted and applied.

The work to establish applicants' identity is deficient

Processing family reunification cases usually involves several difficult assessments that require the employee to have specific skills and sufficient time. The step of establishing the applicant's identity is particularly critical, where a large part of the practical work is carried out at one of the missions abroad on behalf of the Migration Agency. According to the processing procedures, the missions abroad are not responsible for checking the authenticity of the documents, but should only verify that the documents are consistent with the normal appearance of documents in the country or region in question. The quality of the work of the missions abroad is varied and the control of the applicant's documents is not adequate. The case officers in Sweden usually assume that the missions abroad have carried out sufficient checks and that the identity of the applicant is thus established. There is therefore a risk that the task of establishing the identity of the applicant is not guaranteed by any actor. Furthermore, the Migration Agency's support to the missions abroad is deficient in terms of meeting the need for technical equipment, skills development and guidance to review various documents and ID documents.

Quality assurance during ongoing processing and follow-up of the legal quality needs to be developed.

The audit shows that the quality assurance mechanisms that exist during ongoing processing are weak. It is particularly serious in one-person decisions that are common in decisions to grant permits. Decisions to grant permits are not appealed and thus are not either reviewed by a court. In addition, they are difficult to revoke.

Furthermore, the Swedish NAO considers that the Migration Agency's model for follow-up has deficiencies that are too great to be used to measure the legal quality of the processing. However, the model's educational and forward-looking purpose may

be of merit if it leads to a strengthening of the quality and consistency of processing. The Migration Agency does not either conduct systematic follow-up of the work of the missions abroad on family reunification cases, which is particularly serious considering the important role they play in the work of establishing the applicant's identity.

Shortcomings in skills supply at the Migration Agency and missions abroad

The Migration Agency has not ensured the supply of skills for the processing of family reunification cases, especially when it comes to access to in-depth training programmes. This involves a special risk to the activities, given that in recent years competence has been lost in this type of case in connection with cutbacks at the Agency. The audit shows that similar shortcomings in the supply of skills are also found at the missions abroad.

Risk that the Government's allocation of resources is inadequate

The Migration Agency has not achieved the statutory processing times for family reunification cases. With reference to the budget situation, the Migration Agency has decided to give family reunification cases low priority when allocating resources compared with other types of case. However, in the latest budget documentation, the Migration Agency forecasts a financial surplus in its 2022-2024 operations with reference to the transition and cutbacks in operations that have been carried out. Despite this, the Swedish NAO considers that there are uncertainties regarding, among other things, the inflow of cases, digitalisation and the development of the work to establish the identity of applicants. Furthermore, there is a risk that necessary development initiatives are not being carried out to a sufficient extent, especially when it comes to the work of the missions abroad. All in all, the Swedish NAO therefore assesses that there is a risk that the Government's allocation of resources is not sufficient in relation to the objectives and requirements established for the organisation.

Recommendations

Recommendations to the Swedish Migration Board
- Review and improve the work of establishing the applicant's identity.
- Secure skills supply for the work with family reunification cases at the Migration Agency and missions abroad
- Strengthen quality assurance during ongoing processing of family reunification cases, with a particular focus on one-person decisions.
- Develop follow-up of the legal quality of processing, with a particular focus on the efforts of missions abroad.

Recommendations to the Government

- Ensure that the Migration Agency makes the necessary development efforts to improve the work of establishing the applicant's identity.
- Investigate whether the division of responsibility and the organisational structure when it comes to establishing the applicant's identity in family reunification cases are appropriate.
- Give the Migration Agency the task of investigating, in cooperation with the relevant agencies, how the Migration Agency can more easily access the necessary information in the processing of family reunification cases.