

The Swedish Regularisation Experience

**EMN CONFERENCE OSLO
PATHWAYS OUT OF IRREGULARITY**

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THE CONTEXT

- ✘ 2004 Archbishop Hammar's Christmas letter to the government focusing on the refugee child.
- ✘ Proposed reform of the asylum procedure
- ✘ The phenomenon of children with depressive devitalisation
- ✘ Social democratic government dependent on support from the Greens and the Left Party

OTHER FACTORS

- ✘ Fear of huge backlog problems when moving to a court-based asylum procedure
- ✘ Growing number of rejected asylum seekers in hiding
- ✘ Experience of previous temporary measures

THE EASTER APPEAL OF THE CHRISTIAN COUNCIL OF SWEDEN MARCH 2005

- ✘ We regret that the child's best interests are not given priority in decisions regarding residence permits in our country
- ✘ We welcome a court procedure providing asylum seekers with increased legal safeguards
- ✘ We urge the Swedish government to grant an “amnesty” on the introduction of a new court procedure to all those who have been refused asylum in our country
- ✘ We demand that the right to asylum be restored and broadened in a manner worthy of a humane society under the rule of law

FURTHER MOMENTUM

- ✘ Formation of “Flyktingamnesti 2005” in February in Gothenburg with similar demands. Activist approach.
- ✘ CD "To those we send back“
- ✘ Demonstrations and meetings Sweden-wide
- ✘ Lobbying of political parties
- ✘ Campaign magazine
- ✘ Asylum seekers actively participating
- ✘ Network of networks

PARLIAMENTARY INITIATIVE BY FIVE OPPOSITION PARTIES JUNE 2005

- ✘ "Anyone who applied for asylum within one year prior to the date the new Aliens Act comes into force and who a month before the date the reform takes effect is present in Sweden without a residence permit... may be granted a permanent residence on humanitarian grounds
- ✘ This does not apply if there are serious reasons to believe that the alien is guilty of conduct referred to in Article 1F of the 1951 Convention on Refugees, the alien has been convicted to more than six months in prison
- ✘ or where previous investigation shows that the alien has been convicted or reasonably suspected of an offense that can lead to more severe punishment than six months in prison

PROPOSAL CONTD.

- ✘ Persons unable to verify their identity would be granted temporary permits for at most one year
- ✘ Families with children affected by depressive devitalisation syndrome may be granted a residence permit... regardless of the date of application for asylum. "
- ✘ Those who had left Sweden after applying for asylum would not qualify

NEW ALIENS ACT

- ✘ Passed by Parliament in September 2005 but the five-party motion regarding regularisation of rejected claimants was turned down.
- ✘ "humanitarian grounds" replaced by "extremely distressing circumstances"
- ✘ Triggered the Greens and the Left Party to alternative action
- ✘ Ultimatum – no regularisation = no budget approval

THE TEMPORARY ACT

- ✘ Period of validity 15 November 2005 – 30 March 2006
- ✘ New Aliens Act entered into force 31 March

PROVISIONS

TO QUALIFY

- ✘ Enforceable removal order (Decision from the Aliens Appeals Board)
- ✘ New protection grounds
- ✘ Strong medical grounds
- ✘ The home country refuses to admit you
- ✘ The home country is not safe to send people to
- ✘ Long time in Sweden (children)
- ✘ A matter of humanitarian desirability (humanitärt angeläget)

PROVISIONS CONTD.

EXCLUDED

- ✘ Those with a temporary permit
- ✘ Those for whom 4 years have passed since the appeal was rejected
- ✘ Those with expulsion orders because of criminality
- ✘ Security cases
- ✘ People who have committed serious crimes

PRIVILEGED GROUPS

- ✘ Certain families with children having lived in Sweden a long time
- ✘ Those from countries which refuse to accept forcibly returned failed claimants

FOR CHILDREN

- ✘ The child's social situation
- ✘ The length of time spent in Sweden
- ✘ Links with Sweden
- ✘ Risk of damage to a child's health and development if sent back from Sweden

PROVISIONS/ PRACTICE

- ✘ A period of two years residence for children was sufficient if the child was not an infant and the eldest child was at least 4 years old
- ✘ If a family returned to Sweden the length of residence was only counted from the date of the new application

PERMITS

- ✘ Permanent
- ✘ Temporary - unclear ID; from northern Iraq; criminality

IMPLEMENTATION

- ✘ The Migration Board was responsible. No appeals allowed but a renewed application could be made within the time limit.
- ✘ Staff employed at the detention centres were given crash courses in assessing cases according to the interim provisions
- ✘ An informal reference group with some NGOs was set up.

IMPLEMENTATION

- ✘ Ex officio assessment for those not in hiding
- ✘ People in hiding had to present themselves at a reception centre for their application to be considered

OUTCOME

- ✘ A total of 30,552 people applied for the residence permit and 59 percent of them - more than 17,000 applicants - were granted permits.
- ✘ Beneficiaries were people from countries where it was not possible to carry out forced expulsions -Afghanistan, Iraq and Somalia. In this group 96 percent of the applicants received a residence permit.
- ✘ Other beneficiaries were families with children who had stayed sufficiently long in Sweden .. 76 percent "of all families with children" were granted permits

RECIPE FOR A SUCCESSFUL PATHWAY

- ✘ Legislative changes affecting asylum process
- ✘ Support from several political parties
- ✘ Support from the media
- ✘ Support from different ideological and religious leanings
- ✘ A political situation where small parties can impose conditions
- ✘ Presence on the streets
- ✘ Broad ecumenical support and a desire to influence the direction but not the details policy

NECESSARY PREREQUISITES

- ✘ Not to be bound by the EU's default position, which means "no to amnesties"
- ✘ To ensure that regularisation is based on individual assessments of cases
- ✘ To accept that not everyone will be granted a permit
- ✘ To minimise any pull effect

REFERENCES

- ✘ The Swedish Aliens Act 2005:716
- ✘ The Temporary law. Amendment of the Aliens Act 1989:529
- ✘ "De apatkiska. Om makt,myter och manipulation" Gellert Tamas
- ✘ www.skr.org (Christian Council of Sweden)
- ✘ www.migrationsverket.se (Migration Board website)