



Summary

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Changing tracks in the migration process

– controls and follow-up

Summary

The Swedish National Audit Office (Swedish NAO) has audited whether the system of changing tracks from asylum to labour immigration is efficient.

The audit refers to cases that the Swedish Migration Agency had processed and decided in accordance with legislation that applied up to and including 31 May 2022.

Exemption from the work permit requirement (AT-UND) means that asylum seekers may have the opportunity to work in Sweden during the asylum process. Those who have started to join the Swedish labour market during their asylum process and have then had their asylum application rejected may be granted a temporary work permit to work via a ‘track change’ under certain conditions. This entails an exception to the general rule that an application for a work permit must be submitted and granted before the person enters Sweden. The possibility of changing tracks was introduced in connection with the labour immigration reform in 2008 to make it easier to recruit labour from third countries.

In recent years, the number of applications for changing tracks has been steadily increasing. Applications have amounted to 2,000–3,300 every year since 2017. This means that one in six people whose asylum application was rejected has applied for a track change in the past five-year period. Since the system of changing tracks was introduced in December 2008 up to and including December 2021, just over

20,000 people in total have applied for a track change, of whom about 40 per cent have had their application granted.

Audit findings

The audit shows that the system of changing tracks in general seems to reach the right target group. However, the Swedish NAO assesses that changing tracks can be used to circumvent legislation on asylum and labour immigration. Our conclusion is primarily based on the existence of deficiencies in the Swedish Migration Agency's procedures and control activities, and is also supported by analytical statistics.

The consequences of deficiencies in the control activities include a risk of wage dumping, that sham employment goes undetected, that vulnerable people are exploited in the labour market, and that people who do not meet the criteria for changing tracks can still be granted residence and work permits. Ultimately, there is also a risk of people losing confidence in the system.

Changing tracks may be used in order to enter the Swedish labour market

We note that processing times for track change cases, as a rule, amount to several months and in some cases more than a year, in addition to the time that the asylum process itself has taken. This means that, in practice, asylum seekers can work in Sweden during their asylum seeking process and subsequently during the processing time for the track change, even though wages and other working conditions are worse than what is required for a work permit. In the cases where the Swedish Migration Agency rejects a track change application because it does not meet requirements, it is therefore still possible to work in Sweden without a work permit during the processing time, according to the regulations. Without early controls there is thereby a risk that employers exploit the situation by, for example, offering a lower salary and poorer working conditions than are usual in the Swedish labour market. Interviews with staff at the Swedish Migration Agency also confirm that changing tracks can in some cases be used as a way in to the Swedish labour market.

One in four 'track changers' comes from five countries that taken together account for only 6 per cent of all asylum seekers. At the same time, relatively few of these countries are considered to have sufficient grounds for protection. Furthermore, one in six track changers comes from countries included in the Swedish Migration Agency's list of 'safe countries of origin' since 2021. This may be indications that people have come to Sweden for purposes other than to seek protection.

All in all, we consider that changing tracks can be used as a way to circumvent legislation that applies for regular labour immigration. Asylum seekers can access

the Swedish labour market and employers can avoid regular controls that are required for work permits in the case of regular labour immigration.

Not all track changers meet requirements for a work permit

The audit shows that most people who were granted a track change had started establishing themselves in Sweden, but about 7 per cent had a registered monthly income of less than SEK 13,000 before taxes in the four months before applying for a track change. Most of them had no income at all. This means that these people did not meet the maintenance requirement for a work permit, which corresponds to a monthly salary of at least SEK 13,000 before taxes.

A year after their track change, about 6 per cent of the track changers had an income amounting to less than SEK 13,000 per month. The majority of them did not have any registered earned income at all. This suggests that the conditions for a work permit were not met at the time of application, or that the employment on which the permit was based was terminated in advance.

Furthermore, the audit shows that one in four people who were granted a track change had an earned income before the asylum application; this is known as early establishment and can constitute grounds for rejection. However, in some of the cases there may be acceptable reasons for this, for example a person working in Sweden when there is an impediment to enforcement following an earlier application for asylum. In addition, one in four track changers has received wages from more than one employer during the first year after being granted a track change. In the case of a track change, the work permit is tied to one employer, which means that a person who switches employer must report this to the Swedish Migration Agency for a new review. However, the audit does not show whether the matter has been reported and reviewed.

All in all, these can be indications that the Swedish Migration Agency's controls are not sufficient enough to detect a lack of compliance with the regulations.

The Swedish Migration Agency's procedures and control activities are lacking in several respects

The audit shows that the Swedish Migration Agency's procedures and control activities are lacking in several respects. Above all, this applies to the fact that the Swedish Migration Agency does not always check whether the applicant has worked before their application for asylum, by checking the Swedish Tax Agency's information. We also note that the Swedish Migration Agency has not carried out follow-up checks of granted track changes in recent years due to inadequate resources, which means that there is a risk of errors or misuse of the regulations going undetected until the person possibly applies for an extension of their work permit. At the same time, we note that it has become easier to collect information

from the Swedish Tax Agency and that the Government has taken the initiative for more follow-up checks. However, the audit shows that the checks could be more effective if the Swedish Migration Agency could also collect information about people who only have a coordination number and was given better support to evaluate employers.

Furthermore, the checks are made more difficult by deficiencies in the exchange of information, both within the Swedish Migration Agency and with other government agencies and actors, such as employee organisations. For example, other government agencies may have access to information that may be important for the Swedish Migration Agency's decision in a particular case, but may consider that they cannot disclose the information. This is partly because the act on the obligation to provide information when collaborating to combat organised crime is interpreted in different ways at different agencies.

The Government has an increased focus on controls but has not followed up how the system for changing tracks is working

The Swedish system of changing tracks is fairly unique from an international perspective. Therefore, when it was launched there was no previous experience or research to support the design and the implementation of the reform. Several referral bodies pointed out risks of misuse, human trafficking and unwanted side effects. Since the track changers find themselves in a different situation compared with other labour immigrants, there is also a risk of other problems arising than in the case of a regular work permit.

All in all, we assess that the Government should have followed up how the system is applied to be able to act in the event of any problems. However, the audit shows that this was not done. The Swedish NAO notes that, in June 2022, the Government tasked an Inquiry Chair with analysing and deciding how the system of changing tracks can be abolished. However, the inquiry is in an early phase and, as a result, legislative changes are expected to take time.

Recommendations

The Swedish National Audit Office makes the following recommendations.

To the Government

- Ensure that the Swedish Migration Agency can share necessary information with collaborating agencies, and that the information can be used in the processing of cases.
- Ensure that the Swedish Migration Agency can compile necessary information about employers to investigate and check track changing cases.

To the Swedish Migration Agency

- Give priority to and strengthen efforts concerning follow-up checks of granted track changes, both automated and risk-based manual checks.
- Investigate the possibilities of automating checks concerning whether the conditions for track changes are met.
- Develop a technical solution to collect information from the Swedish Tax Agency, also for people who have a coordination number.
- Develop administrative support to evaluate an employer's financial circumstances.
- Investigate the possibilities of preparing administrative support for assessing which employers should be checked more thoroughly in track change cases.