



Summary

Date: 2023-11-09

Reference number: 2022/0643

RiR 2023:19

The system for revoking residence permits

Summary

Under the Aliens Act, the Swedish Migration Agency may revoke a residence permit, work permit or a declaration of protection status for a number of different reasons. In certain specific cases, the permit must be revoked. The Swedish National Audit Office (Swedish NAO) has audited whether the system for revoking residence permits works effectively and as the legislator intended.

It is common for residence permits not to be revoked despite grounds existing for doing so

The Swedish NAO finds that the regulatory framework for revocations is not being applied as intended. When, for example, a person with a permanent residence permit in Sweden emigrates permanently, the Swedish Migration Agency must revoke their residence permit. Yet, at the end of 2020, 9,000 people still had a permanent residence permit even though they were registered as having emigrated in 2019 or earlier. More individuals have probably left the country without this being registered by Swedish authorities. The Swedish NAO's analysis also shows that 1,700 people who are registered as residents in Sweden and held a residence permit for work purposes completely lacked registered earned income in 2020, without their permit being revoked. An additional 2,800 people with residence permits for study purposes were not registered in any form of studies in Sweden. This means that almost one in ten work permits and one in four study permits can be called into question.

Revocations have taken low priority in governance

The Swedish NAO considers that an important reason for the shortcomings described above is that revocations have taken low priority both for the Government and the Swedish Migration Agency. Between 2013 and 2022, the Government did not provide the Swedish Migration Agency with any objectives, tasks or reporting requirements concerning revocations. In the same period, the Government commissioned the Swedish Migration Agency with prioritising a great number of other types of cases and activities. Towards the end of the period, the Swedish Migration Agency also made considerable cost cuts. The Swedish NAO notes that the Swedish Migration Agency has therefore had limited room to prioritise revocation cases on their own initiative. This is reflected in the fact that the Swedish Migration Agency has not produced any cohesive process for initiating, investigating and deciding on such cases. Neither are revocations included in the agency's internal production targets, follow-up or resource allocation. The procedures for processing information that can lead to revocations have also been deficient. For example, the Swedish Migration Agency could improve efficiency in its work through more automated systems for capturing information from other agencies.

However, since early 2022, the Swedish Migration Agency has started work on developing revocation processing. For 2023, the Government has also commissioned the Swedish Migration Agency with prioritising residence permit revocation cases.

Agencies do not submit information to the Swedish Migration Agency

The Swedish NAO notes that the Swedish Migration Agency only has a legal mandate to perform follow-up checks, on its own initiative, on residence permits granted for work purposes. In general, the Swedish Migration Agency must first suspect that a person is not fulfilling the conditions for their residence permit. Many other agencies are in possession of such information, but the audit shows that the information is not always shared with the Swedish Migration Agency.

For example, officers at the Swedish Tax Agency working on population registration cases repeatedly find information that could lead to revocation cases, but which they are not permitted to forward to the Swedish Migration Agency. This is because, like other agencies, the Swedish Tax Agency lacks the legal mandate to share this information. In most cases, the agencies are at the mercy of the 'general clause' in the Public Access to Information and Secrecy Act, which does not enable an effective exchange of information. For example, every single disclosure must be examined individually, which is resource-intensive and time-consuming.

It may also take some time before the Swedish Migration Agency receives the information and acts on it. One example is when, after an investigation, the Swedish Social Insurance Agency or the Swedish Pensions Agency determines that a person should no longer be covered by Swedish social insurance due to emigration. They submit this information to the Swedish Tax Agency, which then performs its own residency investigation. Once the Swedish Tax Agency has completed its investigation and deregistered the person from the population register, the Swedish Migration Agency is notified. Only then can the Swedish Migration Agency begin to investigate whether the residence permit should also be revoked. In other words, three separate investigations may be performed in succession before the Swedish Migration Agency can make a decision.

A revocation decision does not always have the intended effect

A decision to revoke a residence permit does not always become legally binding. This is often because the Swedish Migration Agency has not succeeded in serving the person in question with the decision. The audit shows that the Swedish Migration Agency does not fully utilise the opportunities for serving decisions afforded by the Service of Process Act. Furthermore, the Swedish Migration Agency does not always register information on serving decisions or their legally binding status in its case management system. Almost half of all revocation decisions concerning residence permits during 2013–2022 do not have a registered date for when decisions were served or became legally binding. The period of validity for many of these residence permits has expired, but registration is also absent for one in four revoked permanent residence permits. If the Swedish Migration Agency cannot prove that the decisions have been served, the permits may still be valid, even though they have been revoked. Consequently, these people can continue to travel into and reside in Sweden and the Schengen area and obtain services and benefits to which they should no longer be entitled. In addition, the Swedish Migration Agency seldom informs other agencies of decisions concerning revoked residence permits or declarations of protection status. This is due to some extent to deficient procedures, but mainly to the fact that it is unclear when the Swedish Migration Agency has a duty to notify other agencies of revocation decisions.

Agencies such as the Swedish Social Insurance Agency, the Swedish Pensions Agency, the Police Authority, municipalities and regions may need to check whether a person has a valid residence permit in Sweden. However, this information is not always readily available or comprehensible to other agencies. The agencies that have access to register data from the Swedish Migration Agency often need to supplement it by e-mailing or calling to obtain clarification about what a certain piece of information means and how it should be interpreted.

Government agencies, municipalities and regions also sometimes mistakenly assume that a person who is registered in the population in Sweden also has a right to reside in Sweden and thus obtain various benefits.

Consequences of these shortcomings

The audit shows undue payments from agencies and municipalities of up to SEK 430 million during 2013–2022. Some of the payments have been disbursed to people whose residence permit has been revoked, and some to those who have emigrated permanently without having their permanent residence permit revoked. The fault thereby lies both with the Swedish Migration Agency and with the disbursing agencies. One reason for errors is that the Swedish Social Insurance Agency can use out-of-date information about residence permits when making decisions on granting benefits. It is the assessment of the Swedish NAO that the undue payments are partly a symptom of a greater problem concerning inadequate controls of who is covered by the Swedish social insurance system. The Swedish NAO has therefore initiated an audit of the controls in social insurance connected to cross-border mobility.

Recommendations

To the Government

- Investigate how register data on residence permits can be made more accessible for agencies that need it.
- Investigate the possibility of introducing a duty of notification for the Swedish Tax Agency, the Swedish Social Insurance Agency and the Swedish Pensions Agency with regard to the Swedish Migration Agency concerning data that can be assumed to contravene the conditions for a residence permit.
- Investigate the possibility of developing the Swedish Migration Agency's duty of notification to the Swedish Social Insurance Agency and the Swedish Pensions Agency regarding decisions to revoke residence permits or a declaration of protection status.

To the Swedish Migration Agency

- Illuminate revocation cases in the agency's internal planning, follow-up and resource allocation.
- Develop automated systems to improve the work on handling tips and follow-up checks.
- Improve work on serving decisions and take measures to ensure that more of them become legally binding.

- Review the possibility, within the bounds of existing legislation, of making data on period of validity and any revocation of residence permits more accessible for agencies and other actors.

To the Swedish Social Insurance Agency

- Develop procedures for when residence permits must be checked in the decision and payment process.