

The logo for NIM (The Nordic Institute for Migration) features the letters 'NIM' in a bold, light blue, sans-serif font. The background of the logo is a dark, moody image of turbulent blue water with white foam from waves.

The Nordic
Institute for
Migration



The future of family reunification in the Nordic countries

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In brief

- Safe haven for kids – two narratives of children and the Nordic countries
- Have human rights 'mainstreamers' forgotten children?
- Family reunification as a problem
- Denial of rights as a push factor?
- Race to the bottom
- Courts as guardians
- Children's rights to the forefront

Safe haven for kids?

“In the recent [Best Countries for Raising Kids](#) ranking, Nordic nations account for four of the top five. Sweden took the top slot (up from number two last year) followed by Denmark and Norway. Finland is in fifth place. According to researchers, who studied 80 countries in all, their appeal is based on a combination of state support and family-friendly cultures.” (Douglas Broom, World Economic Forum, 15 March 2019)

“Despite a world-leading record of commitment to child rights, Nordic countries are failing to provide full protection and services for asylum-seeking children. [Protected on Paper? An analysis of Nordic country responses to asylum-seeking children](#), produced by the UNICEF Office of Research – Innocenti, reports on legal and procedural standards for migrant and refugee children, and the extent to which they are being applied on the ground in Denmark, Finland, Iceland, Norway and Sweden.” (UNICEF, 20 March 2018)

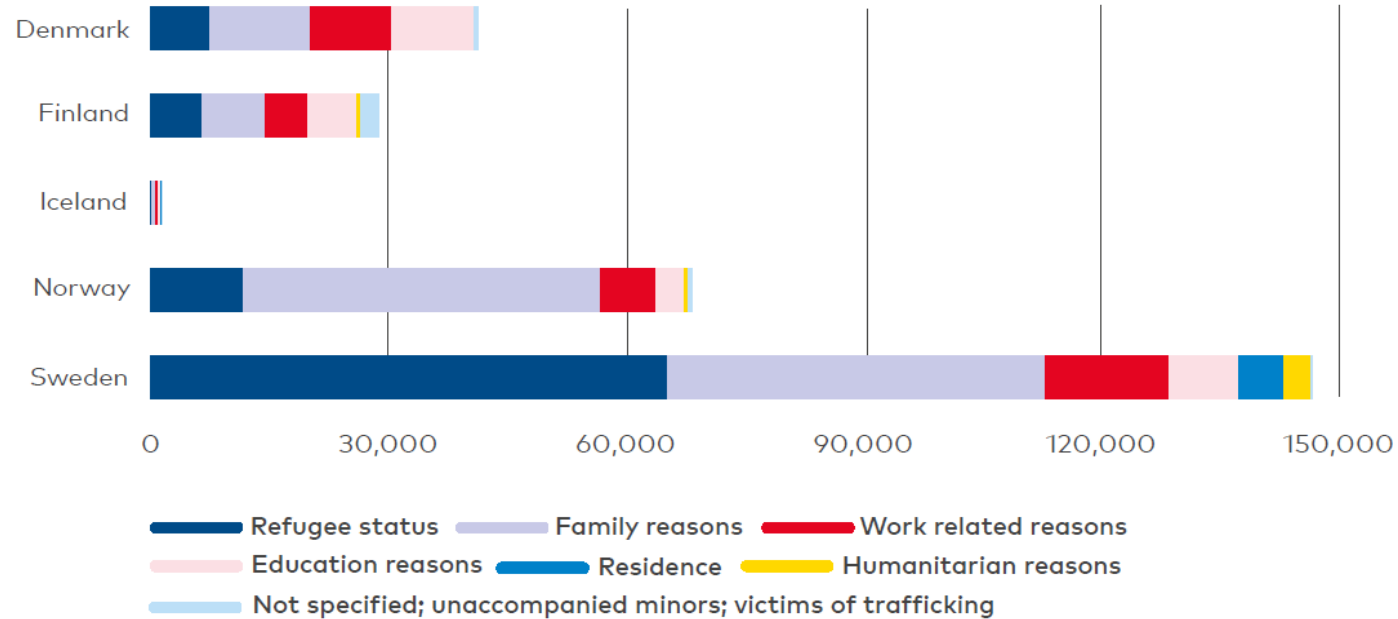
Human rights ‘mainstreamers’

- All five countries have mainstreamed human rights as cornerstones in their respective foreign policies
- Strong focus on non-discrimination and on the coherence between internal and external policies
- Gender equality and the rights of children are seen as important
- Unfortunately, children seeking international protection seems to be the exception that proves the rule
- Why have human rights ‘mainstreamers’ chosen such a chilly attitude towards these kids?

Family reunification as a problem

- Family reunification is one of the main avenues for legal migration to the EU
- According to a recent study made by Migropol, it accounts for approximately a third of all arrivals of third-country nationals to the EU
 - after 2015, many European states did the math and panicked (see next slide)
- Pull factor ‘theories’ – ‘anchor children’
- Denial of rights as push factors?

Figure 1.3 First permits for non-EU residents issued in 2016, by reason.



Data source: Eurostat, calculations by Nordregio. Note: Only residence permits decided during 2016 included.

Denial of rights as a push factor?

“It is noteworthy that there is a trend in Europe whereby all countries tighten their practices concerning family reunification. One can ask whether Finland can stay outside. And the answer is: no. Even Finland must scrutinize and tighten its family reunification practices.” (MP, social democrat)

“Do you want Finland to be a particularly attractive country, so that thousands, tens of thousands, of asylum seekers travel via Europe, through other countries in order to entry specifically Finland, because on the contrary with those other countries, it is much easier to get your family reunified in Finland? Do you want this? If you do not, how can you shut your eyes to this?” (MP, conservative)

Race to the bottom

Ministry of Justice, Sweden, Fact Sheet (February 2018):

“On 20 July 2016, a **temporary** act was introduced bringing Sweden’s asylum rules **in line with minimum standards under EU law**. Under this act, **persons eligible for subsidiary protection are granted temporary residence permits and opportunities for family reunification are limited**. The limitations do not apply to quota refugees. The restrictions on obtaining a residence permit in Sweden are considered necessary for at most three years.”

Courts as guardians

- Sweden, Migration Court of Appeal MIG 2018:20 – temporary law under scrutiny
 - the court attached particular weight to the principle of the best interests of the child, as enshrined in the Convention on the Rights of the Child (CRC), to reiterate that further delays in family reunification were not in accordance with that principle
 - the restriction imposed on the right to family life was contrary to Sweden’s international obligations under Article 8 ECHR and Articles 3, 9 and 10 CRC
- CJEU - Case C-550/16 A and S, 12 April 2018
 - an asylum applicant who is below the age of 18 at the time of his or her entry into the territory of a Member State, but who, in the course of the asylum procedure, attains the age of majority and is thereafter granted refugee status must still be regarded as a “minor”
- Denmark, the Supreme Court of Denmark, case 107/2017
 - family reunification which is limited to those who have been holding a residence permit for more than three years not against the European Convention on Human Rights
 - the case is pending in the ECtHR

Children's rights to the forefront

- The best interests of the child: in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, **the best interests of the child shall be a primary consideration**
- The principle of **non-discrimination**: it prohibits discrimination on the basis of the status of a child as being unaccompanied or separated, or as being a refugee, asylum-seeker or migrant

Thank you!