

## BACKGROUND

1. According to [EC Directive 2004/38](#), EU citizens and their family members – whatever their nationality – have a right to reside in any EU country. Where family members do not possess the nationality of an EU country, they are required to apply for a residence card. This residence document should be issued to them within a deadline of six months which is set by EU law and also contained in Swedish law.
2. The delays in issuing residence documents to family members is made apparent on the [website of the Migrationsverket](#), which contains information on the average time it takes for applications for residence documentation to be processed. The website confirms that it can take anywhere between 16 to 24 months for the *Migrationsverket* to take a decision on applications for residence cards made non-EU family member of a EU citizen.
3. The evidence collated by the EU Rights Clinic and its partner Crossroads of the Göteborgs Kyrkliga Stadsmission illustrates the systematic failure of the *Migrationsverket* to meet the six-month deadline in respect of any kind of application for residence documentation made by non-EU family members. The delays have been reported in several publications since 2013.
4. The obligation to issue residence cards and permanent residence cards to non-EU family members within six months is contained in Articles 10 and 20 of EC Directive 2004/38. These obligations have been correctly transposed by Swedish law, as stated in Chapter 3a Section 7 of the Swedish Alien Ordinance ([Utlänningsförordning 2006:97](#)). However mere transposition into national law is not sufficient for meeting an obligation to implement a directive under EU law; the objective prescribed must be met both in law and in fact.
5. In a case involving delays in Spain in 2003, the Commission brought infringement proceedings before the Court of Justice which resulted in a ruling by the Court that the Spanish authorities had failed to fulfil their obligations under EU law ([Case C-157/03](#)).
6. More recently, in 2009 and 2011, the Commission launched formal infringement proceedings concerning extensive delays in the issuance of residence documentation by the Irish and UK authorities. The Commission's actions resulted in the elimination by the UK and Irish authorities of delays in processing applications for residence documents submitted by EU citizens and their families. Following the [Commission's intervention](#), the UK authorities put in place a comprehensive plan to reduce the backlog of cases, including the significant expansion of the number of caseworkers allocated to handle EU residence applications, as a result of which the time for handling new applications was returned to the appropriate six-month deadline required by Directive 2004/38.