

THE SEPARATED CHILDREN IN EUROPE PROGRAMME

Country assessment

Country: **Latvia**

Assessment period: **01.01.1998. – 01.11.2000**

Respondent: National Centre for the Rights of the Child

Consulting agencies:

- The Refugee Affairs Centre of the Department for Citizenship and Migration Affairs of the Ministry of Interior**
- The United Nations High Commissioner for Refugees (UNHCR)**
- The Refugee Appeals Council**
- The Latvian Red Cross**

The list of references:

The Satversme (Constitution) of the Republic of Latvia

The Administrative Code of the Republic of Latvia

The Civil Law

The Law "On Asylum Seekers and Refugees in the Republic of Latvia", 1997

The draft Asylum Law, 2001

The Law "On Protection of the Rights of the Children", 1998

The Law "On Entry in and Residence of Aliens and Stateless Persons in the Republic of Latvia", 1992

The Education Law, 1998

The Law "On Orphan's Courts and Parish Courts", 1995

The Law "On Equalisation of the Local Government Finance", 1998

The Regulations of the Cabinet of Ministers No.222 "On Procedure Applicable to a Child Crossing the State Border of the Republic of Latvia", 2000

The Regulations of the Cabinet of Ministers No.35 "On Procedure for Enforcing the Right to Receive the Emergency medical Assistance", 1999

The Regulations of the Cabinet of Ministers No.250 "On Procedure for Mutual Settlements of Local Governments for Services Provided by Educational or Social Institutions", 1999

The Regulations of the Cabinet of Ministers No.315 "The Adoption Rules", 1996

UNHCR, The Handbook on Procedures and Criteria for Determining Refugee Status, Geneva , 1992 (translation into the Latvian language, 1999)

UNHCR, The Guidelines for Criteria and Procedures Applicable to Unaccompanied Children Who Have Applied for Asylum, Geneva, 1997.

Save the Children/UNHCR, Action for the Rights of Children. A Training and Capacity-Building Initiative On Behalf of Refugee Children and Adolescents.

UNHCR, Guidelines on Policies and Procedures in Dealing with Unaccompanied Children Seeking Asylum, Geneva, 1996.

UNHCR, Working with Unaccompanied Children. A Community-based Approach, Geneva.

Introduction

The Law “On Asylum Seekers and Refugees in the Republic of Latvia” is in force as of 18 July 1997. In practice the asylum procedure was implemented in 1998. Since then 85 persons have applied for asylum of which 7 persons have been granted refugee status. In 1999 two applications were filed by unaccompanied children. During the examination process it was established that both persons are over the age of 18. However, several procedures for dealing with unaccompanied children were applied during the examination of both applications. Therefore the subsequent description of practical examples includes references to the above cases. At the same time it must be admitted that it is difficult to provide answers to all practical questions and to describe the cases of practical implementation of legal provisions.

The drafting of the new Asylum Law (replacing the Law “On Asylum Seekers and Refugees in the Republic of Latvia”) was commenced in the year 2000. The draft Law was developed in line with most of the provisions of the asylum *acquis* of the European Union. At the moment draft law is accepted by the Cabinet of ministers and submitted in Saeima (Parliament).

DEFINITION OF “UNACCOMPANIED CHILD” (SGP: A2.1)

a) What definition is applied in Latvia?

The Law “On Asylum Seekers and Refugees in the Republic of Latvia” does not include a clear definition of “unaccompanied child”. Article 11 of the Law states as follows: “If the child is not accompanied by parents and wishes to apply for refugee status independently (...)”. Thus, the term “unaccompanied child” is used in the Law, but no definition of the term is given.

According to Article 3 of the Law “On Protection of the Rights of the Children” a child is a person under the age of 18, and the state has an obligation to secure the rights and freedoms of every child without discrimination on any ground such as race, nationality, sex, language, party membership, political opinion and religion, national and ethnical or social origin or other status of the child, his or her parents, the guardians and the family members. Consequently, the said provision is applicable to all subjects of protection of the children’s rights, including the state and local government institutions. The consulted state institutions admit that in practice the term “unaccompanied child” is referred to any child under the age of 18 who is located outside his or her country of origin and enters/resides in Latvia without the parents or a person replacing the parents.

The Law “On Protection of the Rights of the Children” of 1998 transposes the Convention on the Rights of the Child in the national legislation.

b) Are the children who are together with their brothers/sisters who have reached the age of 18 regarded as “unaccompanied children”? Please include a reference to the UNHCR Guidelines of 1997.

The Law “On Asylum Seekers and Refugees in the Republic of Latvia” Article 11 Sub-clause 2 stipulates that the rights and lawful interests of a minor, i.e., a child, may be represented in the asylum procedure by the parents of the child. If a child is unaccompanied and wishes to apply for refugee status independently, his or her rights and lawful interests in applying and examination of the application are represented by an independent authorised representative appointed by the Appeals Council who is duty bound to act objectively in the best interests of the minor. Consequently, a child who is together with his or her siblings who are over 18 years of age is regarded an unaccompanied child. Since the Law “On Asylum Seekers and Refugees in the Republic of Latvia” does not specify the range of persons who may or may not become a representative of the minor, it is possible that a brother or sister who is of age is appointed as the representative – it will be decided in each specific case by the Appeals Council. In the evaluation of the compliance of the brother or the sister with the status of the representative the interests of the child shall be considered.

c) To what extent it complies with the Statement?

We believe that the compliance with the principles of “good practice” has been achieved. There have not been any such cases in Latvia. However, if it happens in practice, the child would be regarded an unaccompanied child even if accompanied by his/her older brothers or sisters.

d) Are any changes required in accordance with the fundamental principle?

The Asylum Law should include the definition of “unaccompanied child”. It is also necessary to specify the

obligations of the adult relatives (brothers, sisters or others) and their responsibility for the minor.

1. ACCESS TO THE TERRITORY (SGP: C1)

a) Description. Relevant legislation in Latvia.

The Law “On Asylum Seekers and Refugees in the Republic of Latvia”, Articles 12 – 14 stipulate that an unaccompanied child, like any other person, has the right to apply for asylum on the state border or in the territory of the country. According to Article 3 of the same Law a person shall be considered an asylum seeker at the moment he or she has submitted a written application.

Most significant cases in Latvia

Until November 2000 there have not been any such cases on the Latvian border. All minors who have applied for asylum have done it following their arrival in the country.

There are plans after the adoption of the Asylum Law to develop a uniform Instruction for all state institutions involved in the asylum procedure. The Instruction will set the principles for mutual co-operation and the competence and responsibility of the institutions involved in the asylum procedure.

The new draft Asylum Law stipulates that an asylum seeker who submits an application on the state border shall be interviewed by the Border Guard personnel. No special procedure is provided for unaccompanied children.

The new draft Asylum Law stipulates that any asylum seeker (including children and unaccompanied children) may be accommodated at the territorial office of the State Police or at the Border Control Point. The asylum seeker may be remanded at the Border Control Point for longer than 72 hours by a Judge’s Order only.

Therefore, it raises reasonable concern about the compliance with the required standards:

- 1) Will there be premises on the border suitable for accommodation of children and meeting the needs of the child?
- 2) Will there be provisions set for the maximum period of accommodation of a child at the Border Control Point which would differ from the time period spent there by other asylum seekers?
- 3) Will there be any person taking care of a child during his or her stay at the Border Control Point?
- 4) Will the representative who is bound to act in the best interests of the child be appointed sufficiently fast?
- 5) Will the interviewer (according to the draft Asylum Law – a border guard) be duly trained to interview a child?

b) To what extent it complies with the Statement?

Does not comply with the Statement. The same provisions applicable to adult asylum seekers will also apply to the children, namely:

- unaccompanied children may be accommodated (detained) at the Border Control Point or the Police Office;
- applications of unaccompanied children may be examined under the accelerated procedure;
- unaccompanied children may be subject to detailed and repeated interviews.

As it was noted before, there is room for reasonable concern that the minimum standards governing the detention of children, the involvement of the representative and the professional qualifications of the interviewer may be violated. It should be taken into account that unaccompanied children are one of the most vulnerable groups of asylum seekers.

c) Are any changes required (in accordance with the fundamental principle)?

It is necessary to develop the criteria to be applied to the Border Control Point procedure in cases when the application for asylum is filed by an unaccompanied child. Since the new draft Asylum Law does not include such criteria, they could be incorporated in the Cabinet Regulations or the Instructions regulating the activities of the Border Guard in the cases when the asylum application has been submitted. The criteria shall be developed in line with the effective legislation regulating the issues of the rights of the children and the international regulatory documents binding to Latvia including the UNHCR Guidelines setting the criteria for dealing with the children seeking asylum.

It must be admitted, though, that due to the low number of asylum seekers and, especially, “unaccompanied children” the amending of the effective legislation is not a topical issue.

d) Are there legal provisions in Latvia on liability of the carrier under which the airlines, railway companies and shipping companies will be subject to fines if they carry a person who does not have valid entry documents? Are these provisions applicable to children?

There have not been such cases in Latvia when the transportation companies would have brought in unaccompanied child without valid entry documents.

The Law "On Entry in and Residence of Aliens and Stateless Persons in the Republic of Latvia", Article 43 reads: "Transport companies engaged in the carriage of passengers by air lines or sea lines shall cover the deportation costs of aliens and stateless persons, if they have allowed the persons referred to, to enter the territory of Latvia with invalid or incorrectly drawn up documents, or without the applicable documents referred to in Article 7 of this Law".

However, this provision cannot be considered a fine (it is a third party liability indemnity) and it is applied only if the transportation company can be clearly proved guilty of illegal transportation and only in cases when the person is expelled from the country. Depending on the circumstances of each specific case it is possible to hold the guilty person (official) liable. The Administrative Code of Latvia does not provide for administrative sanctions to the transport companies bringing in persons with invalid documents or without any documents.

It must be noted that none of the said laws include references to unaccompanied children.

ILLEGAL TRANSPORTATION (TRAFFICKING) (SGP: C1.2)

e) Are there known cases in Latvia of illegal transportation of children for the purpose of exploitation?

The Services of the Latvian Immigration Police and the National Centre for the Rights of the Child have no knowledge of asylum seeking children in Latvia who would have been brought in or taken out of Latvia for the purposes of exploitation.

f) Are there measures carried out in Latvia to combat any kind of illegal transportation of children?

The Law "On Protection of the Rights of the Children" Article 15 stipulates that

"(1) A child is entitled to protection from commercial exploitation, employment under hazardous conditions and conditions harmful to his/her health and physical, mental or oral development, night work or working hours which interfere with his/her education.

(2) A child is entitled to protection from physical and mental abuse, also sexual abuse and seduction, as well as other types of exploitation and abuse which may in any way be harmful to the child."

According to the Regulations of the Cabinet of Ministers No. 222 "On Procedure Applicable to the Child Crossing the State Border of the Republic of Latvia" of 4 July 2000, children may leave Latvia without their parents only if they have a written assent of one of the parents certified by the notary.

The Cabinet of Ministers of the Republic of Latvia has accepted the Convention On Civil Aspects in International Abduction of Children of 12 October 1980.

The National Programme for Prevention of Sexual Violence Against Children, 2000-2004 was adopted in Latvia on 21 July 1999. The programme includes various measures for prevention of sexual violence against the children and rehabilitation of sexually used children. The programme contains a chapter on provision of information to the children about their rights and self-protection, but there are no action plans specifically aimed at prevention of transportation of the children with the purpose of subjecting them to sexual exploitation.

Upon ratification is also Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, which states additional demands for preventing child trafficking.

2. IDENTIFICATION (SGP: C2)

a) Description. Relevant legislation in Latvia.

The Law "On Asylum Seekers and Refugees in the Republic of Latvia", Article 8 stipulates that the State Police shall identify the persons who have applied for refugee status as provided by the Minister of the Interior. It must be noted that neither the Law "On Asylum Seekers and Refugees in the Republic of Latvia" nor other Laws provide for separate identification procedures for children and adults.

The asylum seeker will be interviewed by a duly trained person from the Immigration Police. The interviewer will ask questions about the personal data, the family, the educational background, the reasons for seeking asylum, the destination and the route of the journey, etc. This interview serves the purpose of collecting the basic information. Some of the Immigration Police officers have received special training on interviewing the children. However, it

must be underlined that the training is just theoretical because of the small number of children seeking asylum.

b) To what extent it complies with the Statement ?

Partial compliance with the Statement. The effective legislation does not provide for a special procedure for identification of unaccompanied children on the state border or within the territory of the country. Therefore at present the provision on special procedures applicable to the children is not complied with.

The draft Asylum Law stipulates that the child shall be interviewed by the staff duly trained for this purpose.

c) Are any changes required (in accordance with the fundamental principle)?

Since the draft Asylum Law stipulates that the child shall be interviewed by the staff duly trained for this purpose, it is necessary to improve and conduct on a regular basis the training on the relevant issues. Such training is needed for the border guards and those Immigration Service officers who are dealing with the asylum seekers. They should receive special training on child psychology, characteristics of different age-groups, they need special skills to be able to communicate with the child. It is necessary to incorporate in the Law or the Instruction a special procedure for identification of the children.

3. APPOINTMENT OF GUARDIAN OR ADVISER (SGP: C3)

a) Is the guardian or the adviser/representative/counsel appointed for an unaccompanied child?

An independent representative is appointed for the unaccompanied child for the period of filing and examination of the application, in accordance with Article 11 paragraph two of the Law “On Asylum Seekers and Refugees in the Republic of Latvia”. The representative is appointed by the Refugee Appeals Council.

The real case involved two asylum seekers who pretended to be unaccompanied children. Independent representatives were appointed who participated in the interview with the asylum seekers. The appointment of the representative turned out to be a complicated process during which the weaknesses of the appointment procedure were revealed. Firstly, it was difficult to find a person who would be able to discharge the functions of the representative and, secondly, the obligations and responsibilities and the qualification requirements for the representative were not defined. In both cases the appointed representative was from the religious organisation *Caritas-Latvia*.

b) What is the role of this person?

The Law “On Asylum Seekers and Refugees in the Republic of Latvia”, Article 11 stipulates that the main obligation of the representative is to act objectively in the best interests of the minor. It means that the representative has to take care that all adopted decisions serve the interests of the child, that the child receives adequate care and is provided with accommodation and, within the possible limits, also receives education. However, it must be admitted that neither the Regulations of the Cabinet of Ministers nor other regulatory documents specify the functions of the representative.

The representative is appointed only for the period of filing the application to grant the refugee status, i.e., for no longer than 8 months. If an unaccompanied child is granted the refugee status then following the receipt of the permanent residence permit a guardian *may be* appointed for this child in accordance with the procedure specified in the general legislation (the Civil Law).

It also must be considered, that in Latvian legislation (and in asylum seeking process in particular) with the term representative/adviser/guardian persons of distinctive role can be marked:

- First, the independent *representative* appointed for representing unaccompanied child in accordance with Article 11 of the Law “On Asylum Seekers and Refugees in the Republic of Latvia” (as described above). During the asylum seeking process this representative is supposed to fulfil the duties of guardian.
- Second, the *legal advisor*, as described in section C11.2. The only duty of this person is to give advice about implementing law, regulating asylum process, in the behalf of person seeking asylum. This advisor, according to the Law “On Asylum Seekers and Refugees in the Republic of Latvia” must be a sworn advocate.
- Third, the *guardian* is granted for all orphans and other children without family care. That guardian can be relative of the child, a foster family or head of a children care institution. The guardianship, most likely, would be granted only after child gains a refugee status.

c) Within what period after the arrival of the child the representative is appointed?

The Law “On Asylum Seekers and Refugees in the Republic of Latvia” does not specifically provide for the period within which the representative should be appointed. In practice the representative must be appointed as soon as possible, since the child may be interviewed in the presence of the lawful representative only. Although

the presence of the representative at the interview is not stated by the Law “On Asylum Seekers and Refugees in the Republic of Latvia”, the state authorities apply the general principle that any interviews with the child shall take place in the presence of the parents or guardians of the child.

In the case were the asylum seekers pretended to be children the representative was ensured within 12 days.

d) What are the qualifications and the competence of the representative?

The effective regulatory documents do not specify the qualifications or the competence of the representative. The representative may be a social worker or an employee of a non-government organisation (this list should not be regarded as exhaustive, since the effective legislation does not require a special qualification for these persons). The most important thing is to ensure that the candidate has sufficient experience in dealing with the children and the interests of the children. In practice with the support of the UNHCR all asylum cases involve also a legal representative (a lawyer or an advocate) who provides legal assistance.

e) To what extent it complies with the Statement?

Partial compliance with the Statement. Neither the Law “On Asylum Seekers and Refugees in the Republic of Latvia” nor other regulatory documents specify the appointment procedure, the timing of appointment and the functions of the representative. There is no list of persons who might be appointed as the representatives. The persons who as the representatives should on a regular basis supplement to their knowledge of the special and cultural needs of unaccompanied children.

f) Are any changes required (in accordance with the fundamental principle)?

The Law “On Asylum Seekers and Refugees in the Republic of Latvia” includes a clear provision that an independent representative shall be appointed for an unaccompanied child. It is necessary to specify the period within which the representative shall be appointed, his or her obligations, the qualification requirements and also he selection procedure. It is necessary to develop the official list of the persons qualified to be appointed as the representatives, trained on the refugee issues and familiar with the cultural and social aspects of the life of the unaccompanied children in their country of origin.

4. REGISTRATION AND DOCUMENTATION (SGP: C4)

a) Description. Relevant legislation in Latvia.

The effective legislation does not include special provisions for registration and documentation of the children. The unaccompanied children are registered according to the same principles as other asylum seekers under Article 16 of the Law “On Asylum Seekers and Refugees in the Republic of Latvia”. All asylum seekers receive the identification documents in accordance with the procedure stipulated by the Regulations of the Cabinet of Ministers No.20 “On Identity Documents of Asylum Seekers and the Procedure for issuing them”. The unaccompanied children are interviewed. All interviews are recorded in writing. Each child is registered and receives the asylum seeker’s identity document.

b) To what extent it complies with the Statement on “good practice”?

Partial compliance with the Statement, since at present the "twin-track" interviewing procedure is not applied where the data and personal information about the child is provided by his or her representative to reduce the number and the scope of the interviews.

c) Are any changes required (in accordance with the fundamental principle)?

It is necessary to include the regulations about interviewing process in the law. “Twin – track” procedure must be applied. There also could be provisions in relation to the qualifications of the interviewer and the participation of the representative in the interview. This point was raised above (see item 5).

5. AGE ASSESSMENT (SGP: C5)

a) Description. Relevant legislation in Latvia.

The Law “On Asylum Seekers and Refugees in the Republic of Latvia” does not include special provisions on the procedure for identification of the age of unaccompanied children. In practice, if the person states that he or she is under 18 and there is no information available to prove the opposite, he or she is regarded as such. In Latvia there is no precedence of age identification, although a possibility exists to identify the age of the child by way of medical tests. Until so far no such need has emerged. If there are obvious doubts about the age of the person the

attempts are made to clarify this aspect during the interview.

Most significant cases in Latvia

There have been two cases in Latvia when the persons seeking asylum pretended to be minors. As it turned out later, their actual age was 24 instead of 14 as they had stated. The actual age was identified following the adoption of the decision by the Refugee Affairs Centre (the first instance) when additional information was received from the Interpol.

b) To what extent it complies with the Statement?

The main principles comply with the Statement.

c) Are any changes required (in accordance with the fundamental principle)?

It is necessary to develop the methodology for identification and/or specification of the age of unaccompanied children on the basis of the information, data and the experience of other countries on the role of the geographical, social, cultural and the diet factors in the development of the child. Both physical and psychological aspects created by the mentioned factors should be taken into account during assessment.

It is necessary to provide by law the possibility and the procedure for ordering such examination.

Moreover, it is necessary to stipulate the procedure for identification of the age of the child that would include the requirement to receive the consent of the representative (guardian).

6 . DETENTION (SGP: C6)

a) Description. Relevant legislation in Latvia.

The international legislation states that the detention is the restriction of the physical freedom of any person by forcing the person to stay in a confined space irrespective of the period for which it is applied. Both the Law “On Asylum Seekers and Refugees in the Republic of Latvia” and the draft Asylum Law use the term “accommodation” to describe the stay of the asylum seekers in the accommodation centres for the asylum seekers and the initial detention of the asylum seekers in the premises of the State Police or the Border Guard to distinguish it from the term “detention” used in the Latvian Criminal Procedure. It must be noted that accommodation of asylum seekers at the accommodation centre by no ways can be compared to detention.

As described before, in the initial phase of the asylum procedure the children may be accommodated on the border or at the police office in premises provided for this purpose, separate from persons suspected of having committed a crime. It is mainly done for the purpose of identification of the person. In the event the filed asylum application is considered justified, the asylum seekers shall be transferred immediately to the nearest reception centre for asylum seekers. An asylum seeker may not be placed in the reception centre for asylum seekers if his/her reason for legal sojourn in the Republic of Latvia has not expired.

The legislation does not include special provisions or procedure related to detention of unaccompanied children. The same provisions applicable to any other asylum case are also applicable to the unaccompanied child, i.e., the child may be accommodated at the premises of the State Police or the Border Guard.

The draft Asylum Law states that the duration of accommodation of any asylum seeker including the minors at the territorial office of the State Police or the Border Control Point shall not exceed 72 hours; this period may be extended by the Judge’s Order only. By this provision the accommodation procedure for the asylum seekers on the border is harmonised with the detention procedure stipulated by the Law on Criminal Procedure (the maximum period of detention is 72 hours from the moment of detention).

Most significant cases in Latvia

No unaccompanied children have been detained in Latvia.

b) To what extent it complies with the Statement?

The distinction must be drawn between the cases when the asylum application is filed in the territory of Latvia and the cases when it is filed on the border:

- if the application is filed for a child in the territory of Latvia he or she may be accommodated at the police office and following the filing of the application shall be immediately removed to the reception centre for asylum seekers;
- if the application is filed on the border, under the draft Asylum Law the accommodation of the asylum seekers, including the children, is the competence of the Border Guard.

The draft Asylum Law states that the asylum seeker shall be accommodated in premises of the State Police or the

Border Guard until the decision is taken that the application is justified; the draft Law does not provide for a special procedure in relation to the children. Consequently, an unaccompanied child is detained like any other asylum seeker. This provision of the draft Law is in conflict with the Statement.

c) Are any changes required (in accordance with the fundamental principle)?

It is necessary to clearly state in the legislation that an unaccompanied child like any other child shall not be accommodated in premises of the Police or the Border Guard, but shall be transferred immediately to the reception centre for asylum seekers or special child-care institutions. The Law should also stipulate that the children may be detained in very special cases only, should provide for a special procedure for detention of the children and set the accommodation standards.

7. RIGHT TO PARTICIPATE (SGP: C7)

a) Description. Relevant legislation in Latvia.

The unaccompanied child, like any other asylum seeker, is granted the right under the law to articulate his or her views and wishes during the asylum procedure. The child (his or her representative) has the right to participate in the examination of the asylum application and in the appeal procedure and to examine case material. Under the Law “On Protection of the Rights of the Children” is given an opportunity to be heard and the procedure shall serve the best interests of the child. The draft Asylum Law states that the views of the minor shall be considered in the examination of the application case.

Moreover, the Law “On Asylum Seekers and Refugees in the Republic of Latvia”, Article 11 states that the rights and lawful interests of the child are represented either by the parents or – in the case of an unaccompanied child – by an independent authorised representative appointed by the Appeals Council.

Most significant cases in Latvia

In the case when the asylum application was filed by the persons pretending to be the minors, their interests were represented by an independent representative.

b) To what extent it complies with the Statement? A brief description.

It complies with the Statement, because the child is given the opportunity to participate and to be heard during the examination of the case.

c) Are any changes required (in accordance with the fundamental principle)?

No additional changes are required in the legislation.

8. FAMILY LOCATION AND COMMUNICATION (SGP: C8)

a) Description. Relevant legislation in Latvia.

Under the Law “On Protection of the Rights of the Children” Article 74 paragraph two, the Orphan’s Court (the Parish Court) in co-operation with the local government social services and the immigration officers shall carry out the measures to locate the parents of the child. Initially this work is based on the information provided by the child. This provision has never been applied, therefore it is not possible to describe the practical implementation.

Theoretically the Red Cross could be involved in the family location and communication process, in particular, if the family of the asylum seeker is located in the hot spot – the territory of the war. There have not been any such cases in Latvia.

The Law “On Protection of the Rights of the Children” states that the mother or the father of the child who reside in another country are entitled to enter Latvia in accordance with the prescribed procedure for the purpose of family reunification. The exercise of the rights of the parents to enter or exit the country is subject to no restrictions other than such as prescribed by law and are necessary in the interests of national security and public safety, for the protection of health and morals of the citizens or for the protection of the rights and freedoms of others. However, it is not clear whether this condition is applicable to unaccompanied children seeking asylum.

Most significant cases in Latvia

There are no precedents in this area.

b) To what extent it complies with the Statement?

The legislation complies with the Statement, but, since there have not been any cases of family location, it is not possible to assess whether also the enforcement complies with the Statement.

c) Are any changes required (in accordance with the fundamental principle)?

The new draft Asylum Law, Article 20 stipulates that a refugee who is under the age of 18 and is not married has the right to be joined by his or her mother and father who have arrived from a foreign country. When drafting the Regulations on the procedure for family reunification it is necessary to consider the UNHCR Guidelines in relation to unaccompanied children

It is necessary to develop the procedure for locating the family of the unaccompanied child and to designate the institutions responsible for the search.

9. FAMILY REUNIFICATION IN ANOTHER EUROPEAN COUNTRY (SGP: C9)

a) Description. Relevant legislation in Latvia.

The Latvian legislation does not regulate this issue. However, in any case the interests of the child must be considered and all possible efforts made to secure these interests. It also must be considered that Latvia is not the party of EU or other union of states, so all EU countries are regarded as foreign (see C8).

Most significant cases in Latvia

There are no precedents in this area.

b) To what extent it complies with the Statement?

Cannot be assessed.

c) Are any changes required (in accordance with the fundamental principle)?

The legislation must emphasise that in the case of an unaccompanied child the family reunification shall be regarded as serving “the best interests of the child”. No other changes are required.

10. INTERIM CARE – HEALTH – EDUCATION AND TRAINING (SGP: C10)

INTERIM CARE (SGP: C10.1)

a) Description. Relevant legislation in Latvia.

The Law “On Asylum Seekers and Refugees in the Republic of Latvia” states that during the examination of their applications for refugee status the asylum seekers are accommodated at the reception centres for asylum seekers where the necessary living conditions are ensured. There are no special reception centres for the children – the refugees and/or asylum seekers in Latvia. Nevertheless, the staff members of the reception centre try to adjust the conditions to the needs of the child. The representatives appointed by the Appeals Council should also see to it that proper care is provided to the unaccompanied children at the reception centres for asylum seekers.

Most significant cases in Latvia

There are no precedents in this area.

b) To what extent it complies with the Statement?

It could be said that the situation complies with the Statement, since, if there were unaccompanied children arriving in Latvia, it would be possible to prepare appropriate premises and to provide adequate care at the reception centre for asylum seekers “Mucenieki”.

c) Are any changes required (in accordance with the fundamental principle)?

No changes are required. It must be ensured that adequate care is provided to unaccompanied children at the reception centre for asylum seekers.

HEALTH (SGP: C10.2)

d) Description. Relevant legislation in Latvia.

Under the Law “On Asylum Seekers and Refugees in the Republic of Latvia”, Article 10 paragraph two, any asylum seeker (both a child and an adult) during the asylum procedure is entitled to receive emergency medical care financed from the state resources. When the asylum seeker is granted the refugee status he or she receives the medical care under the same procedure as the nationals (citizens) and the permanent residents of the Republic of Latvia.

According to the Regulations of the Cabinet of Ministers No.35 “On Procedure for Enforcing the Right to Receive the Emergency Medical Assistance” of 2 February 1999 the emergency medical assistance is defined as the medical assistance in cases of accidents and acute illnesses threatening the life of the patient.

Most significant cases in Latvia

There are no precedents in this area.

d) To what extent it complies with the Statement?

Partial compliance with the Statement. It is important to note that the asylum seekers including the children are entitled only to the emergency medical assistance. In all other cases they have to pay for their treatment themselves. Therefore the current situation complies with the Statement only partially. The special treatment that cannot be provided at the reception centre is not ensured. The children seeking asylum have no access to special medical care.

e) Are any changes required (in accordance with the fundamental principle)?

The existing procedure is related to the overall economic situation in the country and is based on the general regulations on medical assistance. The changes should concern the fundamental provisions in the health insurance system. The unaccompanied children could receive psychological or therapeutic assistance and psychological counselling and/or rehabilitation, for example, in cases of violence, accidents or the death of the relatives by involving the resources of the donors or the NGOs when the state-funded assistance is not provided. Such provisions are included in the first of the Fundamental Principles.

EDUCATION, LANGUAGE AND TRAINING (SGP: C10.3)

g) Description. Relevant legislation in Latvia.

Under the Law “On Protection of the Rights of the Children” the state must provide all children with equal opportunities to receive education. The children must complete their primary education by the age of 18. The Education Law stipulates that the primary education is compulsory in Latvia. All persons who have the permanent residence permit, including the refugees, are entitled to free primary and secondary education. The primary education in Latvia is provided in the Latvian language or – in the minority programmes – in the Russian, Polish, Hebrew and several other languages.

Although the unaccompanied child are entitled to receive education, in practice the education can be provided only in the language which is the language of instruction at the school located in the territory of the local government. Under Article 17 of the Education Law every local government must ensure the pre-school and primary education and the possibilities to receive the secondary education for all children residing in its territory. Consequently, the funds for the education are allocated to the local government which is the official (registered) place of residence of the child. It means that only the children registered as living in the respective local government may receive the education, or the local government shall sign an agreement with an educational establishment located in the territory of another local government and contribute to the financing of the running costs of the respective establishment. But also in this case the child must be registered as living in a certain local government.

In Latvia there is an established system of mutual settlements between the local governments. If the child who is registered as living in one local government attends the school in another local government, the local government which is the official place of residence of the child makes the payment for educational services provided by the other local government (the Law of 5 March 1998 “On Equalisation of the Local Government Finance”, Article 16; the Regulations of the Cabinet of Ministers No.250 “On Procedure for Mutual Settlements of Local Governments for Services Provided by Educational or Social Institutions” of 13 July 1999). Consequently, also a child who has been granted the refugee status has a possibility to receive education outside the territory of the local government in which he or she is living. Neither the country in general nor the school of the local government in whose territory the reception centre for asylum seekers is located in particular has duly trained teachers who would be able to deal with the children who do not speak Latvian/Russian.

One of possible solutions is Latvian international school, in which the learning language is English. At present

there are approximately 120 students in that school. This is private school without the state or local government's finalisation and studies are not free of charge.

Most significant cases in Latvia

There is no comprehensive experience in providing the education to the children of the asylum seekers/refugees in Latvia. Under the Education Law the local governments are responsible for the provision of education to the children in the respective territory. Since there is only one reception centre for asylum seekers in Latvia, it is one specific local government that has to pay for the education of all children, seeking asylum including unaccompanied children. If the person is granted the refugee status, he or she is not obliged to stay at the reception centre and is free to move to another local government territory. The language of instruction is an issue of concern.

h) To what extent it complies with the Statement?

The current situation is not in line with the Statement, since there is no mechanism to finance the education of the children seeking asylum. In reality the children seeking asylum have no access to the general education or any classes at the reception centre for asylum seekers (except the Latvian language instruction) due to the fact that the post of the teacher was abolished in the beginning of the year 2000

i) Are any changes required (in accordance with the fundamental principle)?

It would be necessary to develop the guidelines on education of the minors seeking asylum and to draft the amendments to the regulatory documents on financing of the education, including the Latvian language instruction, for unaccompanied children seeking asylum.

11. THE PROCESS FOR DETERMINING THE REFUGEE STATUS (SGP: C11)

NORMAL PROCEDURE (SGP: C11.1)

a) Description. Relevant legislation in Latvia.

An unaccompanied child has the same right as any other person to apply for asylum in the Republic of Latvia. The Law “On Asylum Seekers and Refugees in the Republic of Latvia” does not offer a special procedure in cases when asylum is sought by an unaccompanied child. Neither the effective Law nor the draft Law includes a provision that asylum applications of unaccompanied children may not be examined under the accelerated procedure.

However, the Law “On Protection of the Rights of the Children”, Article 20 stipulates that the examination of the application of the child must be the priority to ensure that the case is decided as soon as possible.

Most significant cases in Latvia

Since the number of asylum seekers arriving in Latvia is very low, their cases are examined quickly and efficiently. Also the aforementioned two cases of the asylum seekers claiming to be the children were examined within a very reasonable time. Under the Law the time limit for examination of the case in the first and the second instance is 2 months, the maximum duration of examination of the asylum application is 3 months and in cases of appeal it is extended to another 2 months. None of the cases of the unaccompanied children was examined under the accelerated procedure.

The Law “On Asylum Seekers and Refugees in the Republic of Latvia”, Article 17 paragraph one states that the application shall be examined no later than within 3 months from the date of registration of the application. On the other hand, paragraph two of the same Article stipulates that in some cases the time limit may be extended to 12 months with the agreement of the Director of the Department.

b) To what extent it complies with the Statement? Brief description.

Partial compliance with the Statement. In practice no application has been examined under the accelerated procedure, however, the Law does not specifically prohibit examination of the applications of unaccompanied children under the accelerated procedure.

c) Are any changes required (in accordance with the fundamental principle)?

Neither the effective Law “On Asylum Seekers and Refugees in the the Republic of Latvia” nor the draft Law includes a provision that unaccompanied children may not be subject to the accelerated procedure; such provision is applied in cases of reasonable doubt that the asylum seeker does not meet the criteria for granting the refugee status. There is a possibility to examine the application under the accelerated procedure, since the draft Asylum Law provides also for accelerated examination while the asylum seeker stays at the Border Control Point. Therefore the Law should clearly state that the accelerated procedure shall not be applicable to the children irrespectively of the location where the asylum application was filed.

LEGAL ASSISTANCE (SGP: C11.2)

a) Description. Relevant legislation in Latvia.

Unaccompanied children, like any other asylum seekers, are entitled to meet and communicate with a sworn advocate to obtain legal assistance.

In practice the provision of legal services and the involvement of the advocate in the case is ensured by the UNHCR.

Most significant cases in Latvia

In both instances when the case was examined as the case of an unaccompanied child the legal advisor for both persons was provided with the support of the UNHCR.

b) To what extent it complies with the Statement?

As to the availability of legal assistance, the compliance with the Statement has not been achieved, since the representative of the child appointed by the Appeals Council does not provide legal assistance. The general principle on provision of legal assistance stipulated by the Law “On Asylum Seekers and Refugees in the Republic of Latvia”, Article 10 paragraph 1 is applicable also to unaccompanied children. The child (the representative of the child) is entitled to meet and communicate with a sworn advocate (in the draft Asylum Law - a person) to obtain legal assistance. There is no requirement that legal assistance is mandatory in the examination of the application of the unaccompanied child.

c) Are any changes required (in accordance with the fundamental principle)?

The state funds should be provided for legal assistance, the legal assistance should be available free of charge and it should be guaranteed to unaccompanied children, as well as other vulnerable groups of asylum seekers.

MINIMUM PROCEDURAL GUARANTEES (SGP: C11.3)

a) Description. Relevant legislation in Latvia.

The asylum case of an unaccompanied child is examined by the Refugee Affairs Centre. In the event of a negative decision the unaccompanied child is entitled to appeal to the Refugee Appeals Council (an independent second instance).

The minimum procedural guarantees are the right of the asylum seeker to have the application examined, to appeal against the decision, to have the representative, to receive legal assistance, to examine the case material and to present his/her case in the language in which he/she is proficient, to reside in the territory of Latvia during the examination of the asylum application.

Most significant cases in Latvia

It can be stated that the applications of the children and adults seeking asylum are examined in a competent manner at the institutions specifically established for this purpose by the staff who have received special training on asylum issues. The right of appeal and reasonable time limits for the examination are secured.

b) To what extent it complies with the Statement? Brief description.

It complies with the Statement, since the cases of the children have the priority status and are examined fast. The Refugee Affairs Centre of Latvia abides by the principles recognised by the European Union in dealing with unaccompanied children – they shall be regarded a vulnerable group and their cases shall have the priority status.

c) Are any changes required (in accordance with the fundamental principle)?

No changes are required in the legislation. The number of asylum seekers in Latvia is very small, therefore it is possible to examine all cases fast. Undoubtedly, if the number of the cases were higher, then in practice the applications of unaccompanied children would be examined as the priority.

INDEPENDENT EVALUATION (SGP: C11.4)

j) Description. Relevant legislation in Latvia.

The legislation does not provide for involvement of independent experts in the asylum procedure and it has not been done in practice. The best solution would be to involve in the capacity of an expert some of the NGOs dealing with the issues of protection of the rights of the child or a representative of the national Centre for the Rights of the Child.

Most significant cases in Latvia

There are no precedents in this area.

k) To what extent it complies with the Statement?

It does not comply with the Statement, since no identification has been made of the independent experts available in the country.

l) Are any changes required (in accordance with the fundamental principle)?

It is necessary to amend the laws with the procedure for involving the experts and to establish which of the state institutions or non-government organisations may offer the independent experts.

INTERVIEWS (SGP: C11.5)

a) Description. Relevant legislation in Latvia.

The effective legislation does not specify the interviewing procedure. The interviews are conducted by the officers of the Immigration Police with the participation of a representative from the Refugee Affairs Centre. According to the information provided by the Refugee Affairs Centre all interviewers have received special training. Such qualification requirements are compulsory. Currently the interviewers are trained to deal only with the adults seeking asylum, but in the future it is planned to have the interviewers duly trained to deal with the children seeking asylum including unaccompanied children. As follows from Article 11 paragraph two of the draft Asylum

Law this special qualification will be the necessary requirement. In practice all interviews have been conducted in the presence of the representative.

The asylum seeker is ensured the right to examine case material and to present his/her case in a language in which he/she is proficient. However, there are no interpreters duly trained to deal with the children, but this deficiency has an objective reason – no unaccompanied children have ever entered Latvia.

b) To what extent it complies with the Statement?

Compliance with the Statement is partial, since at present it cannot be assumed that the interviewers have received sufficient training.

c) Are any changes required (in accordance with the fundamental principle)?

The draft Asylum Law states that the person conducting the interview shall be duly trained to deal with the children and to understand the specific age characteristics, the cultural differences and the behaviour of the child. It is necessary to elaborate Article 11 of the draft Law and to provide that the interview with the child shall be conducted in the presence of the representative.

CRITERIA APPLIED TO EXAMINATION OF ASSYLUM APPLICATION OF A MINOR SEEKING ASYLUM (SGP: C11.6)

a) Description. Relevant legislation in Latvia.

The effective legislation sets the same criteria for granting of refugee status governing all asylum cases. No separate criteria have been specified applicable to the asylum cases of unaccompanied children. However, the best interests of the children must be considered and in cases of doubt the decision must benefit the child in accordance with the general principle of the asylum law “benevolence in cases of doubt”.

Most significant cases in Latvia

There are no precedents in this area.

b) To what extent it complies with the Statement? Brief description.

Compliance with the Statement is partial, since there are no uniform principles governing the decision-taking in the cases of unaccompanied children.

c) Are any changes required (in accordance with the fundamental principle)?

No changes are required in the legislation, however, it is necessary to set uniform criteria applicable to deciding the cases involving unaccompanied children.

MINORS WHO HAVE BECOME ADULTS DURING THE ASYLUM SEEKING PROCESS (SGP: C11.7)

a) Description. Relevant legislation in Latvia.

The legislation does not regulate this issue.

Most significant cases in Latvia

There are no precedents in this area.

b) To what extent it complies with the Statement?

Complies with the Statement. The best interests of the child are considered.

c) Are any changes required (in accordance with the fundamental principle)?

It is necessary to include the provision stating that the decisive factor is the time of filing the asylum application, i.e., if the person was a minor at the moment of filing the application, the application shall be qualified as an application of a minor and examined accordingly.

12. LONG-TERM SOLUTIONS (SGP: C12)

STAYING IN THE COUNTRY OF ASYLUM (SGP:C12.1)

THE BASIS FOR THE STAY OF THE CHILD IN THE COUNTRY OF ASYLUM (SGP: C12.1.1)

a) Description. Relevant legislation in Latvia.

According to the Law "On Asylum Seekers and Refugees in the Republic of Latvia" the legal basis for the stay of the child in the country is the granted refugee status.

The draft Asylum Law prescribes that not only refugee status but also alternative status may be accorded to the asylum seeker if there is an internal or external armed conflict in the country of origin that prevents his or her return to it or if the asylum seeker has a well-founded reason to fear the death penalty, the corporal penalty, torture, inhuman or humiliating treatment or derogatory punishment.

Most significant cases in Latvia

There are no precedents in this area.

b) To what extent it complies with the Statement?

Compliance with the Statement is partial, since the new draft Asylum Law regulates granting of refugee status and the alternative forms of protection, but none of the laws would allow a child to stay in the country on humanitarian or health-related grounds.

c) Are any changes required (in accordance with the fundamental principle)?

It should be stated that the principle of considering the best interests of the child shall govern the enforcement of the migration and asylum laws.

FAMILY REUNIFICATION IN THE COUNTRY OF ASYLUM (SGP: C12.1.2)

b) Description. Relevant legislation in Latvia.

A child, like any other asylum seeker, is entitled to the family reunification, according to the Article 25 of the Law "On Asylum Seekers and Refugees in the Republic of Latvia".

Under the Law "On Protection of the Rights of the Children" and the Law "On Asylum Seekers and Refugees in the Republic of Latvia" the mother or the father of the child who reside in another country are entitled to enter Latvia in accordance with the prescribed procedure for the purpose of family reunification. The exercise of the rights of the parents to enter or exit the country is subject to no restrictions other than such as prescribed by law and are necessary in the interests of national security and public safety, for the protection of health and morals of the citizens or for the protection of the rights and freedoms of others. However, the law does not state that the same right to enter Latvia is granted also to the brothers and sisters who are the minors.

The draft Asylum Law states that the procedure for family reunification in the country where the applicant is seeking asylum will be specified by the Regulations of the Cabinet of Ministers. At present no regulations stipulate the procedure for reunification of the family of the asylum seeker.

Most significant cases in Latvia

There are no precedents in this area.

b) To what extent it complies with the Statement? Brief description.

In the essence it complies with the Statement on considering the best interests of the child in the examination of his or her case.

c) Are any changes required (in accordance with the fundamental principle)?

It is necessary to adopt the Regulations of the Cabinet of Ministers on procedure for family reunification in line with the fundamental principles.

INTEGRATION (SGP: C12.1.3)

b) Description. Relevant legislation in Latvia.

Before the unaccompanied child is granted the refugee status he or she has limited possibilities of integration. One of the main elements enabling the integration of the child in the society of the country of asylum is the proficiency in the required language. Therefore as early as during the period of accommodation at the reception centre for asylum seekers and awaiting the decision on refugee status the child is given a possibility to learn the Latvian language. Following the granting of refugee status the refugee is entitled to the housing and subsistence benefit for the period of 12 months provided he or she has no other sources of income and to continue to attend the classes of the Latvian language. According to the Law "On Asylum Seekers and Refugees in the Republic of Latvia" the

refugees have all the rights, freedoms and obligations stipulated by Satversme (the Constitution), Chapter 8 “The Fundamental Human Rights”. These rights include, for example, the right to education, the right of possession, the right to freely leave and return to Latvia, to welcome members of his/her family arriving from another country, to retain their native language, culture and traditions. Any person who has been granted refugee status has the right to apply for the Latvian citizenship under the procedure specified by the Citizenship Law. Moreover, in the year 2000 the Department for the Integration of the Society was established at the Ministry of Justice, and among the competencies of the Department is social integration of persons of different national origin.

Most significant cases in Latvia

There are no precedents in this area.

b) To what extent it complies with the Statement?

Compliance with the Statement is partial. There are no special programmes developed for social integration of the refugees or unaccompanied children in Latvia.

If the guardianship is instituted for a refugee child, the child is granted the child benefit and, in addition, the guardian is entitled to a special remuneration for discharge of the functions pertaining to this role.

c) Are any changes required (in accordance with the fundamental principle)?

It is necessary to provide the children with at least the minimum possibilities of integration such as access to education and social benefits. The state should allocate the funds to the local governments housing the refugees to facilitate their integration. The allocations should be used to satisfy the educational and other needs.

ADOPTION (SGP: C12.1.4)

a) Description. Relevant legislation in Latvia.

The Law “On Asylum Seekers and Refugees in the Republic of Latvia” does not specifically regulate adoption of unaccompanied children. The general adoption procedure is specified by the Civil Law (Articles 162 – 176), the Law “On Orphan’s Courts and Parish Courts” of 6 November 1995 and the Regulations of the Cabinet of Ministers No.315 “The Adoption Rules” of 6 August 1996. Prior to adoption of the child the issues of locating the biological parents of the child and the possible family reunification must be dealt with. The adoption is allowed only in the cases when a child is free in legal terms, i.e., when both parents have deceased or have been deprived of parental authority under the procedure provided by law.

Most significant cases in Latvia

There are no precedents in this area.

b) To what extent it complies with the Statement?

Compliance with the Statement is not achieved, since the law does not specify the procedure for adopting a refugee child unless it has been clearly established that the parents of the child have deceased or have been deprived of parental authority under the procedure provided by law.

c) Are any changes required (in accordance with the fundamental principle)?

The general procedure for adoption can be applied also in the cases of the refugees – unaccompanied children, however it is necessary to state whether an unaccompanied child may be adopted if the efforts to locate the parents of the child have failed and whether in such event the child will be considered free in legal terms and available for adoption. These issues should be resolved to facilitate the social integration of the child.

IDENTITY AND CITIZENSHIP (NATIONALITY) (SGP: C12.1.5)

a) Description. Relevant legislation in Latvia.

Identity of a child is a complex issue that includes aspects of citizenship, the right to name and surname, family links, etc. An unaccompanied child may be granted the citizenship under the general naturalisation procedure when he or she becomes of age. The Law “On Citizenship” does not prescribe a special procedure for naturalisation of refugees including unaccompanied children. The Law stipulates the procedure for granting the citizenship and does not include specific more favourable conditions for unaccompanied children compared to other categories of population.

In the light of the effective Law “On Citizenship” it is necessary to distinguish between several theoretical ways how an unaccompanied child seeking asylum may be granted the citizenship. At first we should separate the cases when a child is adopted and becomes a family member of the adopter and receives the legal status of a child born

in a marriage. If one or both adopters is the citizen (national) of Latvia, the child is granted the Latvian citizenship based on their agreement, if Latvia is the country of permanent residence of the child. If at the date of adoption the adopters are not the citizens of Latvia, the child will be granted the citizenship together with the adopters. It must be noted that the citizenship of a child who is between 14 and 18 may only be changed with the consent of the child himself/herself. In all other cases, i.e., when the child is not adopted, the citizenship is granted under the general naturalisation procedure, i.e., if the applicant meets the conditions set in Article 12 of the Law "On Citizenship":

"(1) Citizenship of Latvia shall be granted through naturalisation only to those persons who are registered in the Residents' Registry and:

- 1) whose place of permanent residence, on the submission date of their application for naturalisation, has been in Latvia for no less than five years counting from May 4, 1990 (for persons who arrived in Latvia after July 1, 1992, the five-year term shall be counted from the date of the issuance of their permanent residence permit);
- 2) who have a command of the Latvian language;
- 3) who know the basic principles of the Republic of Latvia Satversme (Constitution) and the Constitutional Law "Rights and Obligations of a Citizen and a Person";
- 4) who know the National Anthem and the history of Latvia;
- 5) who have a legal source of income;
- 6) who have taken an oath of loyalty to the Republic of Latvia;
- 7) who have submitted a statement of renunciation of their former citizenship and have received an expatriation permit from the state of their former citizenship, if such permit is provided for by the laws of that state, or have received a document certifying the loss of citizenship, but citizens of the former USSR who on May 4, 1990 permanently resided in Latvia - a statement that they have not received citizenship of other country; and
- 8) who are not subject to the naturalisation restrictions listed in Article 11 of this Law.

(2) Only those persons who meet all the requirements set in Paragraph 1 of this Article shall be granted the citizenship of Latvia through naturalisation.

(3) A statement on renunciation of the former citizenship, an expatriation permit or a document certifying the loss of citizenship should be submitted after the person has been officially notified that there are no other obstacles against granting him/her the citizenship of Latvia.

(4) The procedure for testing the knowledge of the basic principles of the Republic of Latvia Satversme (Constitution) and the Constitutional Law "Rights and Obligations of a Citizen and a Person", the National Anthem and the history of Latvia shall be determined by regulations issued by the Cabinet of Ministers.

(5) Upon submitting an application for naturalisation, a person shall pay a state duty in the amount determined by the Cabinet of Ministers.

(6) Persons, whose applications regarding citizenship issues have been denied, can resubmit them one year after the previous denial".

It must be noted that granted citizenship of Latvia is the legal basis for termination of refugee status.

Most significant cases in Latvia

There are no precedents in this area.

b) To what extent it complies with the Statement? Brief description.

In principle it complies with the Statement.

c) Are any changes required (in accordance with the fundamental principle)?

It is necessary to discuss, if the Law "On Citizenship" should specify a simplified procedure for granting the citizenship to refugee children who have not been adopted (i.e., in whose case the guardianship has been instituted).

FAMILY REUNIFICATION AND RETURN TO THE COUNTRY OF DOMICILE (SGP: C12.2)

VOLUNTARY EXIT (SGP: C12.2.1)

a) Description. Relevant legislation in Latvia.

If an unaccompanied child seeking asylum would want to leave Latvia, all possible efforts would be made to

ensure his/her safe return to the country of domicile. This procedure would involve the Immigration Service, the UNHCR, the International Organisation of Migration (IOM). The Red Cross could assist in locating the family of the child and communicating with it. However, the effective legislation does not provide for involvement of the said organisations. It must be noted that in case if an unaccompanied child would want to return to the country of domicile it should be necessary to assess the safety of the return from the perspective of the interests of the child.

When a child has been granted refugee status he/she has the guaranteed right to freely leave and return to Latvia like any other refugee.

Most significant cases in Latvia

There are no precedents in this area.

b) To what extent it complies with the Statement?

Partial compliance with the Statement.

c) Are any changes required (in accordance with the fundamental principle)?

The legislation does not specify the actions to be taken in cases if it is not safe to return to the country of domicile, but the child still wants to go there.

CONDITIONS TO BE MET PRIOR TO EXIT (SGP: C12.2.2)

a) Description. Relevant legislation in Latvia.

There are no special provisions on this issue in relation to unaccompanied children. However, the Refugee Affairs Centre is prepared to take any required effort to enable the return of the unaccompanied child to the country of domicile. Before the child leaves it is important to establish whether the unaccompanied child will be safe in the country of domicile.

Most significant cases in Latvia

There are no precedents in this area.

b) To what extent it complies with the Statement?

The Refugee Affairs Centre maintains that if Latvia was dealing with a case of returning an unaccompanied child to the country of domicile, the responsible state authorities would be following the Statement.

c) Are any changes required (in accordance with the fundamental principle)?

No changes are required in the legislation. However, it would be necessary to develop a mechanism for committing the funds to ensure the return of the unaccompanied child to the country of domicile. It would also be necessary to set the procedure for assessment of potential safety of the child in the country of domicile.

PROGRAMMES AND ASSISTANCE TO SUPPORT REINTEGRATION (SGP: C12.2.3)

a) Description. Relevant legislation in Latvia.

The Latvian legislation does not regulate this issue and no national programmes have been developed to support reintegration of unaccompanied children seeking asylum.

Most significant cases in Latvia

There are no precedents in this area.

b) To what extent it complies with the Statement?

Cannot be assessed because of the lack of the legislation and the precedents.

c) Are any changes required (in accordance with the fundamental principle)?

Cannot be assessed.

ACCOMMODATION IN A THIRD COUNTRY (SGP: C12.2.1)

a) Description. Relevant legislation in Latvia.

The Latvian legislation does not include provisions on this issue. Typically, all asylum seekers are accommodated

at the reception centres for asylum seekers in the territory of Latvia.

Most significant cases in Latvia

There are no precedents in this area.

b) To what extent it complies with the Statement?

The compliance is partial, since the legislation does not set restrictions for accommodation of asylum seekers outside Latvia, i.e., in a third country. Still it is necessary to identify safety aspects in a third country before an unaccompanied child leaves Latvia.

c) Are any changes required (in accordance with the fundamental principle)?

Before an unaccompanied child leaves Latvia for a third country it is necessary to identify safety aspects in the respective country and to designate a responsible authority who shall assess the safety in a third country and provide its opinion.

13. DATA COLLECTION

a) Who is responsible for collection of data on “unaccompanied children” (including the state institutions and the NGO-s)?

The Refugee Affairs Centre collects the data on asylum seekers and refugees including unaccompanied children. The data on unaccompanied children include the information about the age and sex of the child, the country of origin, nationality (citizenship), the date of entry, the date of filing the application, the date and place of crossing the border. In addition, the data include information on the decision adopted in the particular asylum case, the appeal (if such takes place), the issuing of the identity documents of asylum seeker. The procedure is governed by the criteria applicable to the minors. Special care shall be taken in collection of data on unaccompanied children.

b) What data are required from the state institutions and the NGO-s?

The required data are collated and processed at the Refugee Affairs Centre. The data are obtained from different institutions, for example, the State Police and the Border Guard.

c) The available data (1997-2000) on unaccompanied children seeking asylum (both from the state institutions and the NGO-s)

During the period from 1998 till 1 December 2000 two asylum seekers have arrived in Latvia claiming the status of unaccompanied children. They both came from Nigeria. Later it was established that both persons are over 18 years of age. Consequently, Latvia has no precedents of real cases involving unaccompanied children.

14. POLITICAL LEVEL – SUPPORT TO THE CHANGES

The level of co-operation of the NGO-s dealing with unaccompanied children with the state and local government institutions

In fact the number of actual cases involving unaccompanied children in Latvia is too small to analyse the level of co-operation between the NGO-s and the state and local government institutions. In Latvia the work of the NGO-s with unaccompanied children is just in the initial phase and it should be developed in the future. There has been real co-operation with the catholic organisation “Caritas Latvia” and the Children’s Fund of Latvia. The Red Cross organisation may be involved in locating the family members of unaccompanied children.

Co-operation with the European institutions – the European Parliament, the European Commission or the Council of Europe

The co-operation with these institutions on issues related to unaccompanied children is in accordance with harmonising Latvian legislation with that of European Union.

Latvian government has approved the national programme for integration in European Union. This programme proscribes also the provisions for harmonising the asylum seeking process-regulating law with the legislation of European Union. Thus, the draft Asylum Law is being made on the basis of EU regulations in this sphere.

The chapter on internal and legal affairs (including regulations on asylum seekers/refugees) in negotiation about entering EU is not opened for discussion yet. The main law harmonisation/amending process will start after closing this chapter.

Support on different political levels to improve the situation of unaccompanied children

The Refugee Affairs Centre studies the international experience in dealing with the problems related to unaccompanied children.

Currently the draft Asylum Law is under preparation, which will replace the law “On Asylum Seekers and Refugees in the Republic of Latvia”. In the drafting phase it could be supplemented with the guarantees for refugee children including unaccompanied children.

Several projects have been prepared with the participation of foreign experts that are aimed at analysing the existing provisions on unaccompanied children and drafting legal and practical proposals to improve the situation.

The Human Rights and Public Affairs Committee of the Saeima (the Parliament of Latvia) has established the Children Affairs Sub-committee that could be used to gain support of the Parliament to the required legislative changes.

Main obstacles to the changes on different political levels

Latvia has been dealing with a very small number of asylum seekers in general and unaccompanied children in particular (as stated above, there have been only two cases of “as if” unaccompanied children). Therefore the issue of amending the legislation in respect of unaccompanied children, unfortunately, is not among the priorities of the Government. Another obstacle is the lack of financial resources.