

Definition, Unaccompanied Children

The definition of unaccompanied children laid down in the internal guidelines applied by the Swedish Migration Board (referred to in the following as the SMB) is as follows:

- ¥ "Under Swedish legislation, a minor is any person under the age of eighteen.
- ¥ The term 'Minor with no legal guardian in Sweden', or 'Unaccompanied child', refers to a person under the age of eighteen who is a citizen of a non-Nordic country and does not have an accompanying parent, adoptive parent or other person appointed as a guardian by the authorities in the child's country of origin, and is not travelling to Sweden for adoption purposes, where the child is applying for a permit to reside in Sweden, or on special grounds has been granted a permit prior to entering Sweden.
- ¥ The term 'Legal guardian' refers to parents, adoptive parents or other person appointed as a guardian by the authorities in the child's country of origin, in accordance with the Children and Parents Act and the 'Act relating to certain international legal conditions concerning marriage and guardianship' (Swedish Code of Statutes, SFS 1904:26).

Under the definition above, siblings who are older than eighteen are to have their cases decided in accordance with the SMB's guidelines for adult asylum-seekers. A sibling aged under eighteen is defined as an unaccompanied child, and their application is to be dealt with in accordance with the routines laid down by the SMB for children with no legal guardian in Sweden. At the same time, with regard to matters such as accommodation, an effort is made to enable siblings to remain together.

Under the definition above, a child travelling with an adult who is not the child's legal guardian is technically speaking an unaccompanied child. Although the child is not, in the literal sense of being alone, unaccompanied, their case is to be processed in accordance with the routines for unaccompanied children, since they do not have a legal guardian. According to representatives for the SMB, it is not a particularly unusual scenario for a child to be travelling together with a sibling of adult age. One person interviewed mentioned a figure of four to five per cent of cases. At at least one of the regional offices of the SMB, the applications of an unaccompanied child and his/her adult sibling are dealt with together, by the same case officer.

The SMB uses the terms 'Unaccompanied child' and 'Child (or minor) with no legal guardian in Sweden' interchangeably.

1. At the Border

Identification

It is unusual for children to be identified at the border; as a rule, children seek asylum having already entered Sweden. What usually happens is that they contact one of the SMB's Asylum Divisions and apply for asylum. An unaccompanied child has the right to make an application for asylum on his/her own; within the SMB there is however a discussion in progress as to whether it is right that a child can make such an application without the assistance of a legal representative.

The first contact with the child consists of registering the application for asylum; certain items of basic information are recorded. This first stage of the processing of the application is called the "initial investigation"; the child is photographed, and fingerprints are taken of children aged over fourteen (if the child has his/her fourteenth birthday during the time their application for asylum is being processed, their fingerprints are taken then). During the initial investigation, the primary concern is with establishing the child's identity and the route by which he/she has travelled to Sweden, and with finding out about the child's family situation, both in their country of origin and in Sweden. As the SMB's work with repatriation has been gaining in importance with regard to unaccompanied children, so increasing emphasis is being given to the work of establishing a clear picture of these children's family circumstances. The SMB's objective is for this initial investigation to provide a foundation for the subsequent investigations which will be necessary in that particular case. In at least one of the five regions of the SMB the case officer who carries out the initial investigation is to have special child competence, and as a rule this same case officer will remain with the case throughout. In other regions the initial investigation is carried out by the case officer who is timetabled to deal with that day's applications; this case officer is usually not a specialised child investigator, although in at least one of the regions they have a standard questionnaire to help them in dealing with unaccompanied children.

The children are then assigned to one of the SMB's children's units. There are at present ten such units around the country (eleven, if we include one other unit which is run by a municipal authority). According to representatives of the SMB, the child unit in question is informed immediately when a child is assigned to it. This routine is applied with regard to all children, irrespective of whether or not there are any relatives involved in the case (for the routines relating to accommodation, see Section 9, below). The staff of the SMB try to get children who have relatives in Sweden to live at one of the children's units at least in the initial stages, so that the social services can investigate the relatives' home in accordance with the Social Services Act and can thereafter make a decision as to whether it is suitable for the child to live there before the child moves in. However, the experience of the SMB is that it is difficult to prevent children who want to from moving immediately into the home of family/relatives; and the SMB has no legal right to prevent a child from doing this, all they can do is try to persuade the child.

The fact that the SMB has dual roles with regard to unaccompanied children has been criticised on the grounds that this is not in the best interests of the child. The duality arises because the SMB on the one hand is responsible for examining whether or not there are grounds for allowing the child to stay in Sweden, while on the other hand staff of the SMB are responsible for ensuring that the children are accommodated and cared for. Save the Children Sweden has long held that there is a need for a different distribution of responsibility between the authorities. In early 2002 the Swedish government instructed the National Board of Health and Welfare and the SMB to investigate ways of improving the reception of unaccompanied children arriving in Sweden. The report on the work done was published in June 2002, entitled "Improvements in the reception of children from other countries who arrive in Sweden without an accompanying legal guardian (often known as 'Unaccompanied Children')". The report presents a number of different proposals, including the suggestion that the remit of the SMB should be limited to processing the child's application for a residence permit, and to concluding agreements with municipal authorities with regard to accommodation and the other practical aspects of the reception of unaccompanied children. This proposal has not yet been implemented.

The Dublin Convention entered into force in 1997 for the twelve European Union member states who were its original signatories. Sweden began applying the provisions of the Convention in October of the same year. The Dublin Convention regulates which EU member state is responsible for examining applications for asylum. Under the terms of the Convention an asylum-seeker may be sent to another member state to have their application examined if, for example, a close family relative has been granted refugee status in that country, if the applicant has a valid visa or residence permit there, or if the applicant has illegally entered that country on their way to Sweden. The Convention does not prevent a state from assuming responsibility for examining an application although, in a literal interpretation of the Convention, responsibility for examining that case rests with another state. Examples of this kind of situation are if there are unusually strong humanitarian reasons involved in the case, or if there is a family connection in Sweden but not in the other EU country. If the SMB case officer investigating a case discovers that the child is a "Dublin case", then an official request is made to the other signatory state for responsibility for examining the asylum application to be transferred to Sweden.

Case officers and Senior Officers at the SMB who we interviewed (Senior Officers are those with decision-making authority) said that there are situations in which a decision is made not to apply the Convention, although strictly speaking it should be applied. An example of such a situation is when the unaccompanied child has relatives in Sweden but not in the other country; another example of when it has been decided to examine the asylum application in Sweden is when there are grounds for fearing that there is otherwise a risk that the child will continue to drift from one country to another. In these latter cases the children have been on the move for a long period of time having fled their home country, with adverse effects on their mental health.

In Section 8, Subsection 8 of the Aliens Act there is a provision which makes it possible to deport a person with immediate effect if it is clear that their application for asylum is groundless:

"The Swedish Migration Board may order that a decision made by the Board to deport a person who has applied for asylum be enforced before the decision has gained legal force (the procedure known as "immediate enforced return") if it is clear that there are no grounds for granting asylum and there are no other grounds for granting a residence permit."

A decision of this kind may only be made within three months of the application for asylum being submitted; only if there are special circumstances may a person be told that they are to be deported with immediate effect after more than three months have elapsed since they submitted their application for asylum. Case officers and senior officers at the SMB who we interviewed said that it is fairly unusual for unaccompanied children to be the object of an immediate enforced return, but that such cases do occur sometimes.

One condition that must be met when unaccompanied children are deported (and this applies with regard to both "normal" deportations and cases of immediate enforced return) is that there must be a receiver in the country to which the child is being sent. The receiver may be a person, an authority or an organisation (in the case of deportations to the Iraqi Autonomous Zone, for example, the SMB has used Save the Children as a receiver). The kinds of situation tend to vary according to whether the child is being deported to their

country of origin or to a third country (as in the case of deportations under the terms of the Dublin Convention). When children are deported to their country of origin, contact is generally made, often with the assistance of the Swedish embassy or legation in the country, with relatives who meet the returning child. When a child is deported to a third country it is more often the case that the receiver is an authority or organisation. A senior officer at a unit which handles a lot of "Dublin cases" told us that the receiving authority in such cases is often the immigration authority of the third country. The same senior officer also told us that an employee of the SMB (as a rule, from the Reception Division) should accompany the child on its journey when a Dublin decision is being enforced; however, there are situations where no adult accompanies the child – for example, if the child is "a 17-year-old Yugoslavian who is on his way to Germany under the terms of the Dublin Convention and has previously lived in Germany for several years". The senior officer explained, however, that contact is always established with the receiving "Dublin state" to make sure that someone meets the child; such agreements are generally made in writing, and only relatively rarely following verbal communication. In Dublin cases, the written deportation order does not contain enforcement directives.

Sweden does not issue sanctions against transport companies, although a cost liability is placed on the transporter if a person is refused entry to Sweden because he/she does not have a passport or those documents which are required for entry, or does not have the money required for their journey back home. Exemption from this cost may be granted if for example the transporter can show that they had good grounds for assuming that the person in question was entitled to travel to Sweden. In such cases the Swedish state bears the costs – for example if the alien in question destroys or disposes of his/her passport on board the aeroplane, or before passing passport control at the Swedish border. The same also applies if the alien is travelling using a forged passport or visa, provided the forgery is not so obvious that it should have been noticed. The rules governing the cost liability of the transporter are laid down in Section 9, Subsection 2 of the Aliens Act.

The standpoint of Save the Children Sweden is that a decision to impose immediate enforced return should never be made with regard to unaccompanied children. It can never be considered immediately obvious that an unaccompanied child has no grounds for being awarded a residence permit.

It is a further standpoint of Save the Children Sweden that every individual decision relating to the deportation of or refusal of entry to an unaccompanied child – that is, including decisions taken in accordance with the Dublin Convention – should include an enforcement directive.

Trafficking with Children

There is concern that unaccompanied children who are seeking asylum are victims of the sex trade in Sweden.

The people we have interviewed on this subject (primarily representatives of the SMB, the social services of municipal authorities, and the National Criminal Investigation Department) have, to summarise their answers, said that they have not seen many examples of suspected cases in which asylum-seeking children have been the victims. One plausible explanation of this is that, once the asylum-seeking children have come into contact with the

SMB and submitted their application for asylum, the Board is able to keep a relatively close watch on them. A number of the people we interviewed emphasised that they believe that those children who come to Sweden for the purposes of the sex trade do all they can to keep away from authorities, and therefore do not seek asylum. However, no-one denies that it occasionally happens that asylum-seeking unaccompanied children get caught up in the sex trade. These children are in the danger zone, in the same way as are all children at risk, and may be easily persuaded by those looking to exploit them. The National Criminal Investigation Department investigates cases where there are indications or tip-offs that prostitution is the real reason for the child's journey to Sweden, with the application for asylum only being a "cover". Another scenario that exists is that the child, after entering Sweden, comes into contact with someone who leads him/her into the sex trade:

"Suddenly the child has a lot of money and a mobile phone, and one thing we know is that it's not the SMB that has given them to the child" (representative of the National Criminal Investigation Department).

"We have seen a couple of strange-looking examples where a child has moved out from a children's unit having found their own place to live and someone claiming to be an "uncle" or something like that who has suddenly "found" their niece or nephew and wants the child to come and live with him. We are powerless to prevent the child from moving" (case officer at the SMB).

Something else which is mentioned by several of the people interviewed is that one group of children who may be at greater risk of being caught in the sex trade than asylum-seeking children is the group who apply for and are granted a residence permit on grounds other than asylum, primarily on the grounds of family ties. It is not necessarily the case that the family circumstances have been fully and clearly established when the child is awarded their permit, and the alleged close relative may perhaps in fact be a distant relative, or not a relative at all. According to our interviewees, these children often fall out of the field of vision of the Swedish authorities. Several of the SMB staff we interviewed said that as the rules stand today, it can prove difficult to investigate completely a child's family relationships; they therefore hope that DNA analysis, which can provide greater clarity on the question of family relationships, will be introduced as a tool in dealing with these kinds of application for residence permits¹.

The SMB is currently studying the cases of those children who, during 2002, absconded while their asylum application was being processed. The study examines all such cases, irrespective of whether they were living at a children's unit, some other kind of reception centre run by the SMB, or in private accommodation at the time they ran away. The number of children who absconded in 2002 was 110, according to the information first given to the SMB employee who is carrying out the study; however, she told us that the initial figure was somewhat higher than the actual number, since approximately ten of the 110 children in fact absconded during 2001, and a number of the children reported as having absconded only disappeared for a few days before returning to where they were living. Even such short

¹ Save the Children Sweden, in a comment published 30 July 2002 relating to the interim report "Immigration of Relatives to Sweden" (Swedish Government Official Reports SOU 2002:13) stated its position on the use of DNA analysis: "Save the Children Sweden welcomes the possibility of using DNA analysis in cases involving the reunification of families. With reference to the best interests of the child, it is important to prevent children from arriving together with, or moving in with, persons who in reality are not their parents. This is not least important in the aim of protecting the children from the risk of being abandoned or exploited in various ways."

absences as these are included in the statistics if, before the child returns, the SMB has had time to report him/her as having gone missing. The study will run for two months, April and May 2003, and if everything goes according to schedule the results will be presented before 1 June 2003. At the time of writing Ð April 2003 Ð the employee in question had examined 80 or so of the 110 cases, and she told us that only in extremely few of the cases she had gone through were there any grounds for suspecting trafficking. In none of the cases can it be said that there is absolutely no possibility that the child has been subjected to trafficking.

A representative of one of the SMB's regional offices told us that in the past it was not at all usual for suspicions of child trafficking to arise, but that in the course of 2002 she encountered two cases where there were strong suspicions of trafficking. The cases were not in any way related to each other, but they were similar in as much as they both consisted of the sibling constellation older brother/two younger sisters, and the children in both cases were Roma who came from Serbia-Montenegro. The children involved applied for asylum and then lived in private accommodation (i.e. not in one of the SMB's children's units). The children absconded, and shortly afterwards the police declared them to be missing persons since the SMB and the social services suspected that these could be incidents of trafficking. The children have not yet been found.

In one of the SMB's regions recent months have seen a sudden increase in the number of arrivals of unaccompanied Vietnamese girls. In the cases of certain of these girls there have been circumstances which have led the staff of the SMB to suspect that the girls have been the victims of trafficking.

If a child disappears, our interviewees told us, the alarm is given to the police, the social services, the child's advocate and the public counsel. Quite a few of the case officers and senior officers who deal with the asylum applications of unaccompanied children have long experience of work within the SMB and with children's cases. Many of them feel that their experience has enabled them to develop an "instinct" which helps them to see if there are any strange or suspicious circumstances associated with any particular case. They also say that they have developed good relations with both the police and the social services, and they think that collaboration between the different authorities generally works well.

It is the opinion of Save the Children Sweden that a child who is discovered as being caught up in trafficking in Sweden should be given a permanent residence permit, if the child so wishes. If the child is to return home, the circumstances to which the child is to return should be fully investigated beforehand.

2. Advocates/Guardians

All unaccompanied children are to be assigned an advocate. According to the internal guidelines of the SMB, the case officer dealing with a case should register the need for an advocate with the Committee of Chief Guardians in the municipal authority where the child is accommodated. If the child moves to another municipality, the rule is that a new advocate is to be appointed in the new municipality, and the old advocate is to be taken off that child's case. If, however, there are special circumstances, the first advocate may continue to look after the child's interests even after the child has moved. The advocacy is exercised under the supervision of the municipal authority's Chief Guardian, and is to continue until the child no longer needs an advocate.

In cases where both of the child's parents are dead, a request is to be made to the Chief Guardian to appoint a guardian.

If a guardian, owing to illness or for some other reason, is unable to exercise their guardianship, then under the terms of Section 11, Subsection 1 of the Children and Parents Act the Chief Guardian is to appoint a trustee to look after the child's interests in place of the guardian. If by Swedish law no guardianship is to be arranged for a child residing in Sweden, or if it has not yet been decided if a guardian is to be appointed, then, if the child's interests need attending to immediately a guardian may be appointed in accordance with Section 4, Subsection 3, Paragraph 2 of the 1904 "Act relating to certain international legal conditions concerning marriage and guardianship". Section 11, Subsection 12 of the Children and Parents Act states that a person appointed as an advocate should be an "honest, experienced and in all other respects suitable man or woman".

According to the government white paper "Swedish migration policy in a global perspective" (1996/97:25) the duty of the advocate is to "look after the child's concerns in the broadest sense, with constant reference to the best interests of the child" (p 258).

Several of the people interviewed, ranging from employees of the SMB to trustees themselves, felt that the definition of the tasks involved in advocacy is unclear. There is no written information that can be consulted. In the absence of a formal definition of the tasks entailed by their position, the advocates have no clear guidelines to guide them in their work and are thus obliged to follow their own judgement. Several of our interviewees said that in their experience there are considerable variations in quality between different advocates and the ways in which they choose to interpret and carry out their tasks.

If one asks advocates and the Chief Guardian Committees of municipal authorities for a "job description", they generally list the following duties:

- ¥ Monitor the child's rights;
- ¥ Monitor that the best interests of the child are at the centre of all decisions made;
- ¥ Be responsible for and co-ordinate the child's contacts with adults;
- ¥ Keep a watch on the child's accommodation, school attendance, and any need for health and medical care;
- ¥ Follow the progress of the application for asylum;
- ¥ Keep a watch on the child's economic interests.

There are no formal channels for co-ordination between the advocate, school, social services and home (children's unit or a relative's home). It is therefore to a large extent up to the advocates to "make themselves known" to the various authorities dealing with the child and to work with their contacts off their own bat. That being said, in one of the SMB's regions we were told how contacts between the Board and advocates worked very well, and how the Board's office invites the advocates and public counsels who often look after children in the region to training and information seminars, which are very much appreciated.

The time it takes to appoint an advocate depends on how quickly the Chief Guardian Committee in the municipality in question works. The afore-mentioned report published by the National Board of Health and Welfare and the SMB, "Improvements in the reception of children from other countries who arrive in Sweden without an accompanying legal

guardian (often known as 'Unaccompanied Children')", explains that one of the problems with the present system of advocacy is that it often takes far too much time to appoint an advocate. The report underlines that it is very important that unaccompanied children have a representative appointed to look after their interests as soon as possible, preferably within twenty-four hours of the child becoming known to the authorities.

Save the Children Sweden considers that it is a matter of urgent importance that, within forty-eight hours of arriving in Sweden, an unaccompanied child should be assigned an advocate with relevant cultural competence and knowledge of looking after children's interests.

The report also includes a proposal for the establishment of a new institute for representatives of unaccompanied asylum-seeking children. Representatives, the proposal continues, should be given wide-ranging responsibility and authority. The proposal has been remitted to an inquiry into advocates, guardians and trusteeship for which the Ministry of Justice is responsible (Reference Dir.2002:55). Via a supplementary directive (Dir.2003:23) it has been decided that the inquiry is to give the question of representatives for unaccompanied asylum-seeking children highest priority. The inquiry is to present its findings on this aspect by 30 June 2003. As a temporary solution, while waiting for the result of the inquiry, the report proposes that the recruitment of advocates should be improved, that advocates should receive training and guidance to prepare them for what their position requires of them, and that the remuneration paid to advocates should be increased, as well as more precisely defined.

No special experience or knowledge is required to be able to work as an advocate for an unaccompanied child. One advocate we interviewed said that a book by the sociologist Kerstin Förlid: "Advocate or Trustee – a Practical Handbook" (available in Swedish only) provided useful help. The third, revised edition of the book which was published in 2001 has a more detailed section on advocacy for unaccompanied asylum-seeking children and on their legal rights. There is also a "Handbook for Advocates" from 1991, by the lawyer Ingemar Strandberg.

To clarify the duties and responsibilities of advocates a formal document should be drawn up, consisting of a description of the tasks entailed by the position, in combination with information covering the special requirements of unaccompanied asylum-seeking children.

The advocates express a need for support and guidance to help them discharge their duties; assigning them a mentor might be one way of providing this.

3. Registration and Documentation

The process of applying for asylum begins with an initial investigation (see Section 1, above). The complete, verbal examination is held at a later stage. According to the SMB's internal guidelines this examination should not be held before a legal aid advisor has been appointed. The guidelines also state that the advocate should be given the opportunity of attending this examination.

The examination of an applicant's grounds for asylum is carried out by an Asylum Case Officer of the SMB. An investigation of the child's social circumstances is carried out by a

Reception Case Officer of the SMB. "In examining the cases of unaccompanied children, social aspects are to be accorded major importance when assessing the application for asylum. This means that the same demands apply with regard to these aspects as with regard to the grounds for asylum. The examination of the grounds for asylum and of social circumstances are to be dealt with as parts of one and the same case, and the examinations are to be filed in the same dossier." (SMB's internal guidelines). In certain regions one and the same case officer is responsible for all contacts with the child, whether they are concerned with the asylum application or with the social aspects; the reason for this is so that the child does not have to meet and deal with so many different people from the SMB, since that may prove confusing and disorienting.

From volunteer quarters we have heard fears relating to the SMB's plans to introduce what are called "individual dossiers". The fear is that those working at the children's units will find themselves in a police-like role, with information such as "X has been heard speaking German on a number of occasions" being documented in the child's dossier. The SMB's response is that the fears voiced with regard to individual dossiers are exaggerated, since the SMB is obliged, under the terms of the Public Administration Act, to inform the applicant and the applicant's public counsel of everything which may affect the outcome of the case and which may work to the applicant's disadvantage. Asylum case officers and senior asylum officers at the SMB who we interviewed emphasise that both they and the staff of the children's units are concerned to maintain an open and honest dialogue with the child. As a senior officer we interviewed put it, the Asylum Division is not interested in "gossip" from the staff of the children's units, but "at the same time we are all staff of the SMB", and the staff of the children's units are supposed to contact the Asylum Division if they feel that they have information which might affect the outcome of the asylum application. However, information is not to be passed on behind the child's back and the child must be told. The usual way in which this is done, according to a representative of the SMB, is for the asylum case officer to have an additional interview with the child to talk about the information in question.

An individual case plan is to be established for each unaccompanied asylum-seeking child. The idea is for the asylum case officer and the reception officer to work together to draw up such a plan, which documents those measures that have been taken and those that are planned in the case in question. In practice, the different regions have made differing amounts of progress in effecting this planning collaboration.

The guidelines also underline the importance of collaboration of a general kind between the advocate, public counsel and so on. In several of the SMB's regions case officers and senior officers consider that this collaboration works very well. In one of the regions the practice is to invite the advocates and public counsels with which the office works to training seminars. In another of the regions there have not yet been any joint meetings but there are plans to introduce them, not least in the aim of developing new methods of examining asylum applications (for more on this topic, see Section 10, below).

With regard to co-ordination between organisations, authorities etc. there are at present no central guidelines relating to the forms to be taken by such co-ordination or to the distribution of responsibility between the asylum side of the case, the reception side, the advocate, municipal authorities, and so on.

4. Age Determination

According to the general guidelines laid down by the Swedish National Board of Health and Welfare, "Medical age determination of immigrant children and children to be adopted" (SOFS 1993:11), a medical investigation of a child's age should only be carried out if there are reasonable grounds for assuming that the age given is incorrect. The Board of Health and Welfare writes:

"The paediatric assessment is the foundation of the medical age determination. It consists primarily of anamnestic data, evaluations of height and weight, and psychomotor and somatic development, including the development of puberty. The determination of dental and skeletal age can function as a complement in this context."

At the same time, it is underlined that account must be taken of a large number of possible sources of error, since height, development of puberty and weight are affected by genetic and environmental factors (the child's metabolism, illness); and since it is a well-known fact that in many cases, when children are exposed to psychological stress, their physical maturity is affected.

"When weighing together different test results, the discrepancy between them may be considerable. The assessment must be based on the overall paediatric picture."

"The determination of skeletal age should be carried out by a specialist in paediatric radiology."

"The determination of dental age should be carried out by an odontologist with specific experience in the area... or by a specialist in the field of paedodontics."

At the same time, the National Board of Health and Welfare points out that the standards on which the two recommended methods for determining skeletal age are based originate from North American and British material, and can therefore not be applied uncritically on other ethnic groups.

The SMB's guidelines have the following to say regarding age determination: "If the child has no identity documents, the investigating case officer should, together with the advocate and any relatives, estimate the child's age, and document how sure they feel this estimation to be. An investigation of the child's age can be effected if it is deemed to have a bearing on the result of the application. Once the investigation has been completed, the age of the child is to be registered by the asylum case officer. Age determination may only be carried out with the voluntary agreement of the child."

The term "age determination" as used in the internal guidelines is however not completely accurate. The investigation carried out by the Board is a skeletal age determination, and includes a dental X-ray and a wrist X-ray. No paediatric assessment is made.

In practice, case officers and decision-makers at the SMB told us, the rule is that before a request is made for a child's age to be investigated, a joint discussion is held between the asylum case officer and the staff of the children's unit. The child is also consulted before the

request is made; the child is asked how she/he can know that the age given for her/him is correct, and if she/he has any way of showing that it is correct. An attempt is also made to assess whether the child's behaviour corresponds to the age given. It is the Asylum Division which makes the request for an age determination to be effected. One of the SMB's regions has, until recently, had an agreement with a specialist paedodontic clinic, and another of the regions uses specialists within the framework of the National Dental Service.

The person/authority to whom the result of the investigation is communicated varies from region to region. In one region, the result is communicated both to the advocate and to the case officer/senior officer at the SMB, who in turn passes it on to the child's public counsel. In another region the Head of Division is given the result, who in this region is the person who has authority to change a child's registered age; he/she then informs the public counsel and the advocate. In a third region it is the asylum case officer who receives the result, and he/she in turn passes it on to the advocate and the child.

The margin of error in the investigations requested by the SMB is plus/minus two years. According to the SMB case officers and senior officers interviewed, those who receive and act on the result of age investigations are aware of this margin. They say that they interpret the result in the child's favour – in other words, they take the lowest possible age presented by the investigation as being the child's actual age. There are however no formal guidelines for how the result should be interpreted.

If, as a result of the age determination process, the asylum-seeker must be classified as an adult, the case officer records this fact, responsibility for the case is passed on to an "adult case officer", and the asylum seeker is moved from the children's unit to one of the SMB's ordinary refugee reception centres.

The Swedish Association of Paediatricians, in its alternative report (published 4 October 2002) to the UN Committee for the Rights of the Child, commented on the SMB's age investigations. The Association of Paediatricians claims that the Board's investigations diverge considerably from the general advice and guidelines laid down by the National Board of Health and Welfare, and that as a result the registered age of a large number of children is changed on dubious grounds. The standpoint voiced by the Association of Paediatricians is that age determination is a medical examination, with regard to which the principle of the "best achievable health", contained in Article 24 of the UN Convention on the Rights of the Child, should apply. As a result of the criticisms raised by the Association of Paediatricians, the SMB has started a review of its routines for investigating a person's age, and a set of guidelines is being drawn up.

The National Board of Health and Welfare states that the foundation of medical age determination is the paediatric assessment; yet no paediatric assessment is included in the process of investigating the age of unaccompanied asylum-seeking children. The reason given for this omission is that it would take far too much time, while these children's cases are to be dealt with as quickly as possible. Another aspect, which was pointed out by all the SMB case officers and senior officers we interviewed, is the importance of ensuring that there are no adults claiming to be children (i.e. under the age of 18) living at the children's units together with children who genuinely are minors. The SMB maintains that it is not unusual for an asylum seeker to claim to be aged under eighteen, believing that this will help them in their application for asylum. Save the Children Sweden knows however of at least one case where the situation has been the opposite: a child under eighteen, following

an age investigation by the SMB, was adjudged to be an adult and was placed at a refugee reception centre among adults.

The SMB's assessment of a child's age is based solely on the determination of dental and skeletal age D criteria which the National Board of Health and Welfare says should be used as a complement to the central examination.

The SMB's investigations into the age of unaccompanied asylum-seeking children are not carried out in accordance with the general advice and guidelines published to cover such investigations. There are no written guidelines within the SMB concerning the interpretation of the results of the age investigations.

The general advice and guidelines laid down by the National Board of Health and Welfare should be followed, and should guide the process of age determination. These children, like all other children, have the right to a complete, overall paediatric assessment.

5. Detention

The Aliens Act (Section 6) contains special rules governing the detention of children. Children may only be deprived of their liberty in cases where they are to be deported with immediate effect (immediate enforced return, as described above) and there is an obvious risk that they might abscond. The same applies in cases where the child is to be deported or expelled from the country, and on a previous occasion when the child was to be sent out of the country keeping him/her under supervision was not sufficient.

According to the same Act, a child may not be taken into custody if it is sufficient to place him/her under supervision. Being "placed under supervision" means that the person in question is under the obligation to report to the local police station at set times, or has to hand in their passport or other personal identity documents, or meet other specific conditions. If the child has no legal guardian in Sweden he/she may only be taken into custody if there are special reasons. In addition, the length of time for which a child may be held in custody is limited. A foreign child under the age of eighteen may not be held in custody for longer than 72 hours; if there are special reasons the child may be held for a further 72 hours.

In its internal guidelines the SMB notes that there are only very limited possibilities of taking a child into custody under the terms of the Aliens Act, and that under no circumstances may a child be held anywhere other than by the SMB. In other words, a child may not be placed under police arrest or put in a detention centre.

According to representatives of the SMB, it is rare for the decision to be taken to take unaccompanied children into custody. There are two reasons for this: one is that it is felt that the staff of the children's units where many of the children live are able to keep a sufficiently close watch on them, since the units are manned around the clock; the other reason is that taking a child into custody is such a drastic measure that it should be avoided as far as possible. One senior officer we interviewed told us, however, of one case where the SMB decided to take an East-European girl, aged under fifteen, into custody: the girl had been a victim of the sex trade, and she applied for asylum when she was discovered by the police. The SMB took her into custody to protect her from the persons who had brought her to

Sweden and exploited her. Save the Children Sweden considers that such practice is unacceptable: in this kind of situation placing the child in detention is clearly not the answer; instead, the social services should be brought in to help.

6. Participation of the Child

On the basis of Article 12 of the UN Convention on the Rights of the Child, in 1997 a new paragraph was added to the Aliens Act (Section 11, Paragraph 1a):

"When assessing matters relating to residence permits in accordance with the present Act, then, in so far as it is not inappropriate, steps should be taken to ascertain what a child who is affected by the decision reached in a case has to say; what the child has to say should be taken into account to an extent that corresponds to the child's age and level of maturity."

The SMB's internal guidelines discuss the four basic principles of the UN Convention, of which Article 12 formulates one.

Examining the asylum application involves talking to the child; usually it is the asylum case officer who is responsible for this verbal processing (as the conversation-based examination of the grounds for asylum is often called). Those asylum case officers who look after the cases of unaccompanied children are specialists in matters relating to children, and have varying levels of qualification in the field. The verbal processing can be completed in the course of a single conversation, or spread over a number, depending on what is best for the child in each individual case.

7. Family Tracing

The internal guidelines of the SMB say the following:

"Work to trace the child's family starts immediately when the examination of an asylum application begins. --- During the period when the application is being processed, the child should be offered the opportunity of contacting the Red Cross so that, if the child so wishes, he/she can receive as much help as possible to trace his/her parents. In addition to the Red Cross, UNHCR and Swedish embassies and legations can provide assistance in tracing and re-establishing contact between the child and his/her parents --- the case plan should clearly state what is being done, and under whose responsibility, to keep the reunification aspect alive with the child and other people close to the child in all steps taken during the time until a more permanent solution can be reached."

"The staff of the SMB have a responsibility to provide information, throughout the whole of the period during which a case is under examination, on the possibility of repatriation."

Because these guidelines are formulated in such a general manner, the regions have either drawn up their own, more detailed guidelines, or tend to act as they see fit in each separate case. The regions help the child if he/she wishes to contact the family tracing services of the Red Cross (it is a requirement of the Red Cross that the application come from the child himself). Other sources of help are Swedish embassies and the SMB's overseas-based staff,

as well as other organisations such as the BBC (via the Internet) and the International Social Service, ISS.

The SMB's regional offices emphasise the importance of following the internal guidelines and keeping the repatriation perspective open throughout the whole process, despite the fact that this can prove problematical for the staff of the children's units, as the quote below illustrates:

"Our responsibility is to work from the position that everyone should have the chance to return home. We talk about repatriation, get them thinking about it, from day one. It's not an easy role & you sometimes find yourself wondering what the right thing is, when you drag them up in the morning to get them to school, and then when they come home in the evening talk about repatriation."

The question of who has the ultimate responsibility for family tracing is answered differently from region to region. In one region it is the Asylum Division (at least until the work of family tracing has been set in motion; thereafter responsibility may be delegated), in another region it is the children's unit. While the family tracing is in progress there is close contact between the Asylum Division and the children's unit. Once the family tracing has been set in motion it is often the case that other actors involved with the child, such as the advocate, the legal representative and relatives in Sweden, are willing to help.

The regional offices say that as a general rule they involve the child from the very first time they talk to him/her, when the SMB staff ask the child where his/her parents are. The development of the child's involvement in the subsequent stages varies from case to case. As far as is possible, efforts are made to facilitate the child's establishing contact with his/her parents.

An SMB case officer had this to say about the children's predicament:

"A lot of the children aren't here because that is what they want themselves, but because they are on a 'mission' & their parents have arranged the child's journey to Sweden, perhaps in the hope that the child will be going to a better life than he or she could have in their home country, while the children themselves do not want to be here. However, the children are loyal to their parents and don't tell us where they are, although it does happen that a child makes a lot of international phone calls, and we understand that they're phoning their mum and dad. It's as if the child wants us to find out that they are in contact with their parents, so that we can then help them to return home without them having betrayed their parents' confidence."

There are no clear forms for co-ordination relating to family tracing. There are no detailed, written directives governing this. To eliminate the risk of different actors trying to trace a child's family without being in contact with each other, it is necessary to establish a clear division of responsibility, with the child and his/her advocate at the centre.

It is also vital that routines be drawn up to govern how "sensitive enquiries" in the child's country of origin (for example via the Swedish embassy) can be carried out in a manner that guarantees the safety and security of the child and their family. There are no such formal routines today, although one case officer told us that in the region where she works, the

child and the advocate must always be informed when such an enquiry is being considered, and their agreement is required before the enquiry may go ahead.

The child, advocate and public counsel should feel confident that they have no need to worry with regard to how the family tracing work is carried out in the child's country of origin.

8. Family Reunification in Another EU Member State

In June 2003 the EU will in all probability adopt a directive on the right to family reunification. The directive contains provisions covering which categories of persons are entitled to family reunification, and what their rights are. There is a specific provision relating to unaccompanied asylum-seeking children, which states that an unaccompanied refugee child is to have the right to be reunified with his/her (biological) parents. In other words, the parents have the right to go to the country in which their child has refugee status.

9. Accommodation - Health and Medical Care - Education

Accommodation

The fact that the SMB has dual roles with regard to unaccompanied children has been criticised on the grounds that this is not in the best interests of the child. The duality arises because the SMB on the one hand is responsible for examining whether or not there are grounds for allowing the child to stay in Sweden, while on the other hand staff of the SMB are responsible for ensuring that the children are accommodated and cared for. Save the Children Sweden has long held that there is a need for a different distribution of responsibility between the authorities. In early 2002 the Swedish government instructed the National Board of Health and Welfare and the SMB to investigate ways of improving the reception of unaccompanied children arriving in Sweden. The report on the work done was published in June 2002, entitled "Improvements in the reception of children from other countries who arrive in Sweden without an accompanying legal guardian (often known as 'Unaccompanied Children')". The report presents a number of different proposals, including the suggestion that the remit of the SMB should be limited to processing the child's application for a residence permit, and to concluding agreements with municipal authorities concerning the provision of accommodation and the other practical aspects of the reception of unaccompanied children. However, in April 2003 the Minister for Migration explained that the inquiry's proposals would not be implemented because their estimated cost was too high. Instead, the Minister hopes to see closer collaboration in this area with voluntary organisations such as Save the Children.

The actual situation is still that the SMB has the practical responsibility for the children's accommodation and for other aspects of their reception. However, since the above-mentioned report was published, a number of changes have been made to the way the Board receives unaccompanied asylum-seeking children.

There are at present, at locations spread throughout Sweden, ten accommodation units run by the SMB for unaccompanied asylum-seeking children. There is an eleventh accommodation unit in Skellefteå, in northern Sweden, where the Board has an agreement

with the municipal authority and the unit is managed by the municipal authority, and the staff are employed by the municipal authority. This "municipal" accommodation unit can take up to eleven children aged sixteen to eighteen. There is considerable variation in the size of the other ten units: the smallest one can accommodate eight children, while the largest one has twenty places. The units consist of small apartments, which sleep two to three children. All the units are manned twenty-four hours a day.

The law which regulates the accommodation and other practical aspects of the reception of asylum seekers is the "Act governing the Reception of Asylum Seekers and others" (known by its Swedish initials as the LMA, reference no. 1994:137). The Act is formulated in such a way that the SMB has the overall responsibility for the reception of these children, but may contract out the provision of accommodation. Save the Children Sweden considers that the solution with the accommodation unit in Skellefteå is the best example of institutional accommodation for unaccompanied children as the regulations stand today.

All exercise of authority has now been removed from the accommodation units, in the aim of rationalising the different categories of personnel as far as possible. All exercise of authority including questions concerning the practical aspects of accommodation etc. now rests with the reception centres. In certain regions the asylum case officers for unaccompanied children are also responsible for matters concerning accommodation and the other practical aspects of reception.

It is no longer the case that those children who live in private accommodation are attached to a children's unit; instead, their contact person is someone at the reception centre (or at the Asylum Division, if the asylum case officer is also in charge of accommodation etc.).

For a child to be able to live in the private home of a family which is not the child's own family, under the provisions of Section 6, Subsection 6 of the Social Services Act the Social Welfare Board must give its consent:

"A child may not, without the consent of the Social Welfare Board, be taken for permanent residence, care and upbringing into a private home which does not belong to either of the child's parents or a person who is the legal guardian of the child. Consent is considered to have been given when the Social Welfare Board decides that the child may be provided with care in a certain private home.

"The Social Welfare Board may not grant its consent until an investigation has been made into the circumstances prevailing in the private home in question, and the ability of those living there to provide the child with good care."

According to Section 15, Subsection 6 of the Social Services Act, any person who disregards the provisions of Paragraph 1 of Section 6, Subsection 6 of the Act may be fined.

The normal course of events is that an unaccompanied asylum-seeking child lives with their relatives as soon as their application for asylum has been submitted and the child has been registered by the SMB, which reports the child's place of residence to the municipal authority in question and contacts the social services so that they can effect the investigation prescribed by the Social Services Act. When the case reaches the social services for investigation, it is thus almost always the case that the child is already living, and has been for a greater or lesser period of time, in a family home whose circumstances and ability to

care for the child have not been investigated. The staff of the SMB try to persuade children who have relatives in Sweden to at least in the initial stages live at a children's unit, so that the social services can investigate the family home in accordance with the Social Services Act, and then make a decision as to the suitability of the home before the child actually moves in. The experience of the SMB is however that it is difficult to prevent a child from moving in with relatives straight away; the Board has no legal authority to prevent children from doing this, all it can do is try to influence their decision. It is in fact not an unusual occurrence for children to be living in a private home without having received the consent of the social services, at least for a time.

The objective must be that the placement of unaccompanied children – both those who are seeking asylum and those who are applying for a residence permit – should be managed in accordance with the provisions of the Social Services Act, and should be dealt with in equally as professional a manner as all other placements, with a correct procedure of full investigation, follow-up and evaluation, and with the form of accommodation being properly suited to the child's needs.

Health and Medical Care

Unaccompanied asylum-seeking children are entitled to the same health, medical and dental care as children who are resident in Sweden.

The SMB's guidelines contain the following recommendation: "The child is to be offered a health check, which may include a meeting with a psychologist, in connection with being registered at a unit."

In the case of children living at a children's unit, the staff of the unit make an appointment for the child's health check. Where the health check is carried out varies – it may be the municipal refugee health centre, the doctor responsible for the refugee reception centre, or the local national health service clinic.

In at least two regions the health check includes an examination of mental health; in one of these two regions the unaccompanied children have priority access to the child and youth psychiatric care service; in the other region, the refugee health centre screens the children as part of the health check; the staff of the children's units in the region can subsequently take the initiative of asking a psychologist to see a child if there is a deterioration in the child's mental well-being.

There is at least one region which does not examine mental health as part of the initial health check; however, if the children so wish, the staff of the respective children's unit will help them make an appointment with the child and youth psychiatric care service.

With regard to those unaccompanied children who live in a private home, it is the reception case officer (or the asylum case officer, in those regions where the asylum case officer is also responsible for the practical aspects of reception) who is to inform the relevant people that the child is entitled to a health check. The "relevant people" are the person(s) in whose home the child is living, and the child's advocate – but from a purely practical point of view it may prove difficult to ensure that children living in private homes do actually have their health check. It is not easy to ascertain with any degree of certainty what proportion of those children who live in private homes have their needs for health and medical care properly taken care of.

Save the Children Sweden considers that a meeting with a psychologist should be an obligatory aspect of the health check provided to unaccompanied children.

Education

The "Government Ordinance (2001:976) on education, pre-school activities and after-school care of asylum-seeking children, etc" governs the right of asylum-seeking children, both unaccompanied and accompanied, to education.

Under the provisions of the ordinance, as a general rule the children are to be given a place, according to their requirements, in a pre-school class, at comprehensive school, in a special needs class or at a Saami (Lappish) school, on the same terms as children who are resident in Sweden. The children's right to education does not mean that attendance at school is compulsory for them (Section 2). Older children are offered a place at upper secondary school or in a special needs class at upper secondary level, again on the same terms as children who are resident in Sweden (Section 3). Children are to be offered a place in the state school system as soon as is appropriate with reference to their personal situation, and all efforts should be made to ensure that this is no later than one month after their arrival in Sweden (Section 4). The education provided is to be adapted to correspond to the individual pupil's needs and abilities (Section 5).

The SMB no longer runs any educational initiatives of its own at comprehensive or upper-secondary school level.

The Asylum Process

The Right to Apply for Asylum

See Section 1, above.

Public Counsel

The right to receive legal aid from a public counsel is regulated in Section 11, Subsection 8 of the Aliens Act. The Act states that a public counsel is to be appointed in cases involving deportation, unless it is safe to assume that in a given case there is no requirement for legal aid. With regard to unaccompanied children, there is no legal provision for the compulsory appointment of a public counsel except in cases where the child is taken into custody. The general provisions applying with regard to the appointment of a public counsel are laid down in the Legal Aid Act (1996:1620). Special provisions to be applied in specific cases are contained in the relevant special legislation, for example the Aliens Act.

The SMB's internal guidelines lay down the following:

"A public counsel with appropriate specialist competence should always be appointed for an unaccompanied child, unless this is clearly not necessary. The public counsel is the child's legal representative in the asylum case (Section 11, Subsection 1 b, Aliens Act) and is to be present on every occasion on which the asylum application or the child's need of protection are examined."

Under the terms of the Legal Aid Act the appointment of a public counsel is financed using public funds. The public counsel is to continue as the child's legal representative until the child is granted a residence permit or until a final decision on the residence permit has been reached by the appeal body.

Under the heading "Recommendation" the SMB's guidelines go on to say the following:

"In cases concerning unaccompanied children it is preferable to appoint a special "children's counsel", who ought to fulfil the following conditions:

- ¥ They should be known to the SMB for their work on children's cases, they should be experienced and have good references.
- ¥ They are to have shown commitment and conscientiousness in their work for the SMB.
- ¥ They are to have demonstrated an objective approach in their contact with the SMB.
- ¥ They are to be interested in working in a network of public counsels looking after the interests of unaccompanied children."

According to representatives of the SMB, a public counsel is appointed for all unaccompanied children at an early stage of the asylum application procedure. Nearly all the regional offices have their own, to a greater or lesser extent unofficial, list of public counsels whom they feel have done a good job on previous cases and whom they would appoint again. In one region we were told that if a child comes from an "unusual" country Ð one from which only one or two unaccompanied children per year come to Sweden Ð then a public counsel is appointed who has knowledge of the child's country of origin, even if the counsel does not live locally and is therefore more expensive to appoint owing to the higher travel allowance. If the child has their own suggestion as to who to appoint as public counsel, this wish is accommodated if possible. We were also told that if an advocate has already been assigned to the child, he/she is also consulted about the choice of public counsel.

Stages in the Asylum Process

The SMB is the authority with responsibility for ensuring that every application for asylum is examined and that asylum is granted to all those who are refugees under the terms of the 1951 Geneva Convention Relating to the Status of Refugees (usually referred to as the Geneva Convention or the Refugee Convention) and the Aliens Act. Persons who are not refugees may be adjudged to be in need of protection for other reasons. A person who is "in need of protection for other reasons" is a person who has left their home country:

- ¥ because they feel a well-founded fear that they will be subjected to capital or corporal punishment, exposed to torture or subjected to other inhumane or degrading treatment or punishment; or
- ¥ because they require protection owing to external or internal armed conflict, or are prevented by environmental disaster from returning to their home country; or
- ¥ because they have a well-founded fear that they will be subjected to persecution owing to their gender or homosexuality ².

² With regard to this third point, it was ruled in April 2002 that an inquiry would be set up to study what changes are required to the constitution in order for a person who has a well-founded fear of persecution owing to their gender or homosexuality to be recognised as a refugee in accordance with the Geneva Convention. The terms of reference instruct the inquiry to draw up a proposal for an amendment to the Aliens Act which would make it clear that persecution on these grounds is included in the term "belonging to a certain group in society", i.e. is one of the five alternative criteria which classify a person as a refugee.

(For statistics on residence permits awarded, see Section 12, below).

A negative decision can be appealed against within three weeks of the applicant being told of the decision. The Alien Appeals Board is the first and only appeal tribunal. If the Alien Appeals Board turns down the appeal the case is handed back to the SMB, which as of 1 January 1999 took over responsibility for enforcement from the police. If new circumstances arise after the Alien Appeals Board has turned down the appeal, the person in question may submit a new application for a residence permit to the Alien Appeals Board.

Children's cases are to be given priority at both the SMB and the Alien Appeals Board. A new provision, since the start of 2003, in the government instructions to both authorities is the rule that decisions in cases concerning unaccompanied children should be made within three months. Both authorities, the government instructions stipulate, are to report back to the Ministry of Foreign Affairs on their handling of these cases with regard to the number of unaccompanied children, concluded and unconcluded cases at the year's end, and the average waiting time in the concluded cases.

Representatives for the SMB told us that the new provision has not yet gained full effect and the average time taken to examine a case is over three months.

Assessing a Child's Development and Maturity

According to the SMB's guidelines an assessment of the child's level of mental and emotional development and maturity is to be included in the examination of the asylum application. In addition, the case officer should have the ability to adapt the verbal processing to the child's age, level of maturity and state of mental health. The asylum case officer is the person who carries out the assessment.

Interviews with Children

The SMB's guidelines state the following:

"The case officers who are to investigate children's cases should:

- ¥ have special competence in the examination of cases involving children. Consideration should always be given to whether a male or female case officer would be most suitable in each particular case;
- ¥ have a definite interest in working on children's cases and in working to fulfil the aims and intentions laid down in Swedish legislation, the recommendations of the Children's Committee and the UN Convention on the Rights of the Child;
- ¥ have the ability to adapt the verbal processing to correspond to the child's age, degree of maturity and state of mental health."

In each region there are between two and eleven case officers with special children's competence who work on asylum cases. Their task is to examine the asylum applications of unaccompanied children, and they are to concentrate on children's cases. In at least two regions the children's case officers only work on children's cases, plus those adult cases which are connected with a child's case.

The case officers say that the ideal situation is to be able to work solely with children's cases, and that if senior officers were also able to be similarly specialised they would gain a clearer children's profile. In several of the regions, the senior officers alternate between children's cases and adult cases. The organisational inconsistency means that there are those who feel that children's issues are not given the priority they deserve, and that it is difficult to find time for everything. That being said, several of the people we interviewed said that they felt that children's issues have been more in the spotlight over recent years, and that the management of the SMB is giving these questions greater emphasis.

In two of the regions several of the case officers who work with children's cases have embarked on a continuation course, with the emphasis on conversation methods. The conversation technique can, briefly, be described as encouraging the child to speak freely and avoiding asking too many direct questions. The course also includes lectures on aspects such as child development.

The case officers meet all the children for conversations as part of the investigation procedure. The investigation may also include supplementary information from relatives of the child who live in Sweden, and/or from the person(s) who accompanied the child on his/her journey to Sweden. As a rule, there is closer contact with the SMB case officer in cases concerning unaccompanied children than in other cases. The child's public counsel is to be present at the verbal processing, as is the advocate. In those cases where there are other important adult contacts in the child's life, these may also be given the opportunity of attending the interviews. The interviews with the child are often carried out in stages, depending on the child's age and level of maturity. The interviews, which incorporate several short breaks, are normally held in the SMB's ordinary interview rooms, or in a room at the children's unit. Some case officers try, when time and resources allow, to hold the interviews in the child's home environment. Sometimes other methods, such as going for a walk together, are tried in the aim of helping the child to relax and feel confidence towards the case officer.

Case officers do not use interpreters who are specifically qualified to interpret in children's cases; instead, the general rule is that each case officer engages interpreters whom he/she knows from their work on other cases, and whom they know are good at working with children and young people.

Decision-Making Criteria

A child can, in the same way as an adult, be a refugee in accordance with the Geneva Convention and the Swedish Aliens Act. The Aliens Act also contains, as has been mentioned above, a provision concerning subsidiary protection (Persons in need of protection for other reasons, Section 3, Subsection 3).

In 1997 an addition was made to the first section (Section 1, Subsection 1) of the Aliens Act, with Article 3 of the UN Convention on the Rights of the Child as a model:

"... In cases concerning children, special consideration is to be given to what is required from the point of view of the child's health and development, and with regard to the best interests of the child."

It is primarily in cases where a residence permit may be awarded on humanitarian grounds that this "gateway paragraph" relating to "the best interests of the child" becomes important.

This is because a person who is a refugee or who is in need of protection is entitled to a residence permit, while a permit may be granted to a person on humanitarian grounds. Part of the assessment of the circumstances of the case is then the question of what is in the child's best interests. The government bill 1996/97:25 emphasises that the interests of the child must be balanced against other interests in society, for example the need to regulate immigration. The consideration of other important interests may, the government says, lead to measures being taken which in themselves are not consistent with the best interests of the child (p 227 of the bill). The government also states that the assessment of the best interests of the child under the Aliens Act cannot be given such a wide scope that the simple fact of being a child is almost a criterion in its own right for awarding a residence permit (p 247 of the bill).

The government also underlines the importance of giving the reasons for the decision made. The SMB and the Alien Appeals Board, in their reports, are to explain in what way the best interests of the child have been taken into account in the decision-making process. The organisations have become better at this, but some of the case officers and senior officers we interviewed felt that, owing above all to shortage of time, the explanation of the decision does not always give a full account of how all the various considerations have been weighed against each other.

When children reach the age of majority while their application is being processed

If the child turns eighteen having submitted an asylum application and before a decision has been reached, the case is registered as an adult case. Representatives of one region told us that the routine there is that if a decision has not been made in the case but no further investigation work is needed, then the child case officer remains in charge of the case; if further investigation is required, on the other hand, the case may be passed on to a "normal" case officer, depending on the work load situation. Since it is not appropriate for adults to be living at the children's accommodation units, a child who turns eighteen is moved to the nearest refugee reception centre.

There is a need for additional resources if the case officers are to be able to shorten the investigation period to the length of time prescribed in the government's instructions to the SMB without this having negative effects on the quality of the investigation.

11. Long-Term Solutions

Remaining in Sweden

Grounds for allowing a child to stay

See Section 10, above.

Family Reunification

With regard to the question of the right to family reunification in Sweden between children who are in the country and their parents, the SMB's internal guidelines refer to the preliminary study to the Aliens Act (bill 1996/97:25), where the government says the following on the subject of reunification:

"The government presupposes that the authorities responsible will ensure that, when examining applications for reunification submitted by unaccompanied children or by the

parents of unaccompanied children in Sweden, their examination complies with the demand embodied in the UN Convention on the Rights of the Child that such applications should receive positive, humane and prompt treatment" (p 265).

"With regard to applications for reunification received from parents of children in Sweden, the point of departure is that it is the child who is to be reunited with his/her parents, and not vice versa. If there is no need for protection, the work of promoting reunification should thus focus on the country of origin or the country in which the child's family is resident" (p 229).

The SMB's guidelines note that this means that applications from parents to be reunited with their children in Sweden will normally be turned down, on the grounds that reunification is to take place in the country where the parents are living.

If the child has a permanent residence permit in Sweden, without being a refugee or in need of protection for other reasons, the child may choose on a voluntary basis to be reunified with his/her parents in the country where they are resident. If, however, the child has a permanent residence permit because he/she is a refugee or is in need of protection for other reasons, then family reunification may take place in Sweden. In these cases, the child's family is granted a residence permit on the grounds of having "special ties with Sweden".

In exceptional cases, family reunification is made possible in Sweden even if the child is not a refugee or in need of protection for other reasons. Such cases are when reunification is not possible in any other country – for example, because of the current situation in the other country, or because the country in question does not allow reunification. Reunification is then made possible in Sweden, on the grounds of the best interests of the child.

Family reunification is sometimes allowed in Sweden even when there are no hindrances to a reunification in the parents' country of residence. An example of a case where this may occur is if the parents refuse to contribute to bringing about a reunification in the country where they are living and the child in Sweden is suffering badly from the situation. The family may in such a case be granted a residence permit, primarily on humanitarian grounds in consideration of the child's situation.

When relatives apply for a residence permit on the grounds of family ties with an unaccompanied child, it is the SMB regional office which has dealt with the child's case that examines the relatives' application. The method for dealing with such applications differs from region to region, but in at least one region the approach adopted is that, if possible, the same (child) case officer and the same (child) senior officer who examined the child's case and made the final decision on the child's residence permit should also be in charge of the application submitted by relatives seeking reunification. In other regions responsibility for the cases may be assigned according to different principles – for example, with the asylum case of the unaccompanied child being dealt with by the Asylum Division and the cases of the relatives being handled by the Permit Division (which examines applications for residence permits on grounds other than asylum, such as ties with a person already resident in Sweden).

Critics maintain that the SMB's restrictive attitude with regard to reunification cases does not always conform with Article 10 of the UN Convention on the Rights of the Child. It would therefore be desirable, a) to show a clearer respect for the provisions of the Convention, b) to

promote interaction and exchange between different functions within the SMB, and between the SMB and other authorities/organisations/individuals, in the aim of making important information arising from individual cases more visible, and c), to improve the dissemination of decisions/practice which can serve as guidance.

Integration

When a child is granted a permanent residence permit, a long-term plan is to be drawn up. Among the questions this plan deals with is how best to resolve the child's accommodation requirements. The accommodation solution chosen varies from case to case. The decisive factors in reaching a decision are the wishes and requirements of the child, and what is available in the municipal authority. The child may be placed in a "group-living home" run by the municipal authority or in some other kind of municipally run collective accommodation, in the home of relatives, or in some other family home. The person with responsibility for where the child lives is the reception case officer, in consultation with the advocate and the receiving municipal authority.

Every municipal authority is under the obligation to draw up an introduction plan for newly arrived refugees and immigrants who are placed in the municipality, and naturally the same applies to unaccompanied children.

The Swedish Integration Board is the authority that has the overall responsibility for ensuring that the views and objectives of the government's integration policy are given practical expression in society. It is also a task of the Board to actively stimulate the process of integration in society.

The Integration Board has presented a report to the government in which it highlights the situation of unaccompanied children with regard to their integration, once they have been granted a residence permit (the report, in Swedish, is called "Unaccompanied Children Ð a follow-up of the introduction measures for children granted a residence permit, 1998Ð2000", and was published 9 November 2001). The report presents the findings of a questionnaire-based study which the Board carried out with the collaboration of a selection of municipal authorities. The report shows that to a large extent municipal authorities do not have documents establishing the objectives and policy they are to pursue in their work with unaccompanied children, and that there is a considerable need for such documents. The report goes on to point out that there is a pronounced need for clarification of what "introduction" entails and who is responsible for it. With regard to the work of following up the introduction assistance given to the children, it is hard to ascertain whether it is the child's Care Plan or Introduction Plan that is followed up.

The report also mentions that municipal authority officials feel that there is a lack of clarity over who is responsible for drawing up the Introduction Plan for a child, although it should be clear that it is the municipal authority which is obliged to do so, since they receive a standard remuneration for each child.

Save the Children Sweden emphasises how important it is that the municipal authority draw up an Introduction Plan for each unaccompanied child received in the municipality, and that the plan be followed up. Municipal authorities, too, should bear the repatriation perspective in mind in their work with unaccompanied children, since in the future the child may wish to return to his/her country of origin.

Identity and Nationality

Before the new Swedish Citizenship Act (2001:82) entered into force in July 2002, there was no possibility for a child to acquire Swedish citizenship unless a guardian also applied for Swedish citizenship. Section 7 of the new law provided children with this possibility:

"A child which does not have Swedish citizenship may acquire Swedish citizenship if it is requested by the person or persons who are the legal guardians of the child in Sweden, on condition that the child

1. has a permanent residence permit in Sweden, and
2. has been resident in the country for five years or, if the child is stateless, for three years.

The application for citizenship must be submitted before the child's eighteenth birthday.

If the child has turned twelve years old and is a citizen of a foreign country, then for the child to acquire Swedish citizenship he/she must give his/her consent. Consent is however not necessary in cases where the child is permanently hindered from giving consent owing to mental disability or any similar circumstance."

Family Reunification and Repatriation

Voluntary Repatriation

With regard to voluntary repatriation (the term "voluntary repatriation" refers both to the enforcement of a deportation decision, and to a person who returns home as a result of the repatriation information provided by Swedish officials) the SMB's guidelines refer to UNHCR, which recommends that the following conditions should be fulfilled:

- the parents/some other relative are in the country of origin and have been informed of all the details relating to the child's return;
- it should be ensured that a relative, other adult care-taker, government agency, or child-care agency has agreed, and is able, to provide immediate protection and care upon arrival. The reception and care provided for the child are to have the best interests of the child as their foundation;
- special efforts should be made to provide the child with conversation-based support, especially in cases where the parents have exerted pressure on the child not to return;
- the possibility for international organisations to provide specialist help should be examined, so that they can contact the family in question and ascertain whether there is a need for a family support programme.

The SMB adds that it is the enforcing authority which is responsible for the child until he/she reaches the border of the country to which he/she is being deported; at the border, the authorities of the country in question assume responsibility.

An approach which is seeing increasing use, both by the SMB and by NGOs, is to offer children the opportunity to undertake "reconnaissance journeys". The children are given emotional and financial support to re-establish ties with their country of origin, and if possible with members of their family. It is then up to the children if they subsequently wish to return to their home country for a shorter or longer period of time, or if they wish to return to Sweden.

Save the Children Sweden is at present working with a repatriation project involving Somali children and young adults (aged between 16 and 22 years; in the following all members of this group will be referred to as "children"). The project is being backed by EU funding, and is a collaboration between the Save the Children organisations in Sweden, Norway and Denmark, and the Danish Refugee Council. During the summer of 2003 approximately twenty children will be travelling to Somalia and staying there for three months with the aim of re-establishing their ties with their country of origin. There will be a certain amount of educational activities during their stay. Most of the children still have relatives in the region, and will be living with them. Many of the children have not been feeling psychologically well, they are worried about their relatives in Somalia and what kind of life they are able to live, for example from a financial point of view. These worries are an obstacle to the children's integration in Sweden. The aim of the project is to improve the children's well-being by enabling them to re-establish their links with their country of origin; the hope is that this in turn will give them greater motivation to pursue their education, etc.

The SMB is at present not running any repatriation projects which focus specifically on unaccompanied children.

Prerequisites for Repatriation

See above under "Voluntary Repatriation".

Programmes to Facilitate Reintegration

See above under "Voluntary Repatriation".

Reunification in a Third Country

See Section 8, above.

12. Statistics

The primary responsibility for statistical information rests with the SMB. For the collation of statistics to work, it is necessary that the staff of the SMB around the country record the data from their cases using the appropriate current codes. The system is dependent on coding being carried out, on the codes used being correct, and on the different regions using the codes in the same way. Certain divisions also keep their own statistical records. Some of the statistics are posted on the SMB's website and are accessible to the general public; this kind of data is processed and presented in a way that makes the information intelligible to those who have no knowledge of the internal coding system. Not all statistical information is made generally accessible in this way. Various NGOs have voiced criticism of the fact that it is difficult to decipher the unprocessed statistics, and questioned whether it can be justified that statistical information can only be interpreted if it is explained by a person who is familiar with the SMB's coding system.

Responsibility for the statistics should be vested with the SMB, as is the case today; that being said, the statistics should be presented in a way that makes them more readily comprehensible to those who are not acquainted with the Board's coding system. There is a need for reliable statistics relating to all the stages of the asylum process: refusals of entry, applications received, Dublin cases, children taken into custody, accommodation, medical care requirements, family tracing, repatriation, integration, number of absconsions, etc.

TABLE I

TABLE II

13. Change D Obstacles and Opportunities

Statistics relating to residence permits granted between 2000 and 2002 show that a very small proportion of the unaccompanied children who seek asylum in Sweden are granted a residence permit as refugees or as persons in need of protection for other reasons.

All those who come into contact with unaccompanied asylum-seeking children are in agreement that they constitute a particularly vulnerable group of children with major, specific needs. Not only are they deprived of the care and protection of their parents or of other guardians; they are in addition separated from other relatives, from their friends, and they find themselves in a strange country. They are often adversely affected, both socially and mentally, by this separation. The children are often traumatised, and it is not unusual that the separations they have suffered are the most traumatic experiences of all.

The SMB has a concrete, practical task: to examine a child's application for asylum. Within the framework of the examination of the application, the SMB is also to investigate other D subsidiary D grounds on which a child may be granted a residence permit, such as humanitarian grounds, or family ties. Since the cases of unaccompanied children entail such a tangle of social and humanitarian problems, those who work with these cases may feel that it is important that they have other kinds of qualification than their colleagues who work with "normal" asylum applications; whereas the latter are often trained in law and political science, the former have a greater need for training in fields such as child psychology, social work, education, etc.

At all levels, there is a will to find solutions to the situation of the unaccompanied children. An important step in this direction was taken when, a year ago, the National Board of Health and Welfare and the SMB presented the report mentioned above with proposals for how the reception of the children could be improved, for example with regard to their accommodation. However, the proposals presented in the report have not been translated into reality. The additional amount of money allocated for the unaccompanied children is far too small. The reality remains that it is the SMB which has the practical responsibility for the accommodation of the children and the other aspects of their reception. Save the Children Sweden is of the opinion that a change in the law is required, making the municipal authorities, and not the SMB, responsible for housing the children. A measure of this kind would be in line with the statement made by the government in 2003 in a white paper, that the Social Welfare Board (in accordance with Section 2, Subsection 2 of the Social Services Act) has the ultimate responsibility for the well-being of the people residing in the municipality, and that the municipal authority should therefore (in line with Section 11, Subsections 1 & 2 of the same act) investigate the child's need of assistance and make a decision as to where the child is to live.