

**FINAL REPORT ON SWEDEN AND FINAL TABLE ON SWEDEN DONE BY THE  
ODYSSEUS NETWORK FOR THE EUROPEAN COMMISSION ON THE  
IMPLEMENTATION OF THE DIRECTIVE ON RECEPTION CONDITIONS FOR  
ASYLUM SEEKERS IN: SWEDEN**

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For cooperation and insightful comments and contribution to the study, I will give my thanks to especially Regional Protection Officer Kristina Folkelius and Protection Assistant Karin Davin, both officials at the UNHCR's Regional Office for the Baltic and Nordic Countries in Stockholm.

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## 1. NORMS OF TRANSPOSITION

Q. 1. The Council Directive 2003/9/EC<sup>1</sup> is implemented in Swedish law mainly through amendments of

1. *The Act (1994:137) on the reception on asylum seekers* (Lagen om mottagande av asylsökande). The Act was issued in March 30, 1994, and came into force on July 1, 1994.<sup>2</sup> The Act has been subject to certain minor adjustments referring to the Directive 2003/9. The regulations on different relief, benefits, reception conditions etc. in connection with asylum seekers, have been applied already before, and hence the Directive has not contributed to any far going amendments of the Act.

In the Act on the reception of asylum seekers § 1, there are regulations regarding the personal scope for the application of reception conditions regulated by the Act. Hence, the Act should apply to foreigners that have applied for residence permit in accordance with the Aliens Act ch. 4 § 1 or 2. Further, the Act should apply to foreigners that have applied for residence permits referring to “particular reasons”.

However, the Act should not apply when a child up to the age of 18 is staying with a guardian who has a residence permit in Sweden. Concerning unaccompanied children arriving to Sweden the local authorities may arrange the children’s living, and the Migration Board should assign a local authority for that purpose.

2. *The Ordinance (1994:361) on the reception of asylum seekers* (Förordningen om mottagande av asylsökande). The Ordinance, which was issued on May 11, 1994 and came into force on July 1, 1994, is a more detailed regulation issued by the Government regarding the application of the Act taken by the Riksdag.

3. Concerning the definition of asylum seekers the Act on the reception of asylum seekers refers to the new *Aliens Act (2005:716)*, which came into force on April 30, 2006.<sup>3</sup> Of certain importance is the Aliens Act ch. 4 § 1 with the definition of who is considered to be a refugee, and ch. 4 § 2 with the regulations concerning subsidiary protection; a person applying for a residence permit referring to the Aliens Act ch. 4 §§ 1 and 2 should be considered as an asylum seeker (further, on these matters, see Q.13B).

Basically, the definition of who should be considered to be a refugee refers to the *Geneva Convention*, although Swedish law in certain matters is going beyond the term used in the Convention. Further, there are regulations in the Aliens Act ch. 5 § 4 dealing with residence permit referring to “particular distressing circumstances” (särskilt ömmande omständigheter).

In the Aliens Act there are also regulations concerning the procedure, appeals against decision taken by the State authorities, certain control and coercive measures and more.

(For web links to Acts and Ordinances, see Appendix I.)

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<sup>1</sup> The Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers. *Official Journal L 031, 06/02/2003 P. 0018 – 0025*.

<sup>2</sup> Government’s proposition 1993/94:94 Mottagande av asylsökande m.m. The Act in 1994 replaced the previous Act (1988:153) on assistance to asylum seekers and more.

<sup>3</sup> Government’s proposition 2004/05:170 Ny instans- och processordning i utlännings- och medborgarskapsärenden. The new Aliens Act replaced the previous Aliens Act (1989:529).

Q.2. Other Acts and Ordinances than those listed above that are directly concerned regarding the reception of asylum seekers are:

1. The Ordinance (2002:1118) on state compensation for asylum seekers. (Förordning om statlig ersättning för asylsökande m.fl.)
2. The Ordinance (1996:1357) on state compensation for health and medical treatment for asylum seekers. (Förordning om statlig ersättning för hälso- och sjuk- vård till asylsökande.)
3. The Ordinance (1994:362) on charge for nursing care for certain foreigners. (Förordning om vårdavgifter m.m. för vissa utlänningar.)
4. The Ordinance (2001:976) on education, pre-school activity and school childcare for asylum seekers. (Förordning om utbildning, förskoleverksamhet och skolbarnsomsorg för asylsökande barn m.fl.)
5. The Health and medical treatment Act (1982:763). (Hälso- och sjukvårdslagen).
6. The School Act (1985:1100).<sup>4</sup> (Skollagen.)
7. The Act (2005:429) on guardian for unaccompanied minors. (Lag om god man för ensamkommande barn.)
8. The Social services Act (2001:453). (Socialtjänstlagen.)
9. MIGRFS 2003:10 The Migration Board's instructions on the reception of asylum seekers. (Migrationsverkets föreskrifter om mottagande av asylsökande m.m.)<sup>5</sup>
10. The National Board of Health and Welfare, General instructions 1995:4 Health and medical care for asylum seekers and refugees. (Socialstyrelsens 1995:4 Allmänna råd Hälso- och sjukvård för asylsökande och flyktingar.)

The grading regarding the importance of each regulation is very rough; for instance it is doubtful to state that the Social services Act should be considered of less importance than the Ordinance on state compensation for asylum seekers.

Further, the following Acts and Ordinances listed are indirectly relevant to or of minor importance regarding the reception of asylum seekers:

- The Aliens Ordinance (2006:97).<sup>6</sup> (Utlänningsförordningen.)
- The Dental service Act (1985:125). (Tandvårdslagen).
- The Act (1991:572) on particular control of foreigners. (Lag om särskild utlänningskontroll.)
- The Ordinance (2001:720) on treatment of personal particulars in activities referring to acts on aliens law and citizenship. (Förordning om behandling av personuppgifter i verksamhet enligt utlännings- och medborgarskapslagstiftningen.)

Q.3. Hence, regulations concerning asylum seekers are found in *law*, *ordinances* and *administrative instructions* issued by the competent authorities. Laws – for instance the Act on the reception of asylum seekers – are taken by *the Riksdag* on the proposal of the Government, but before the Government's proposition is dealt with in the Riksdag's

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<sup>4</sup> See also the Ordinance (1994:1194) on the nine-year compulsory school (Grundskoleförordningen), the Ordinance on the upper secondary school (1992:394; Gymnasieförordningen) and the Ordinance (2002:1012) on local government adult education (Förordningen om kommunal vuxenutbildning).

<sup>5</sup> Including amendments through MIGRFS 02/2005.

<sup>6</sup> The Aliens Ordinance (2006:97) replaced the former Aliens Ordinance (1989:547) in April 30, 2006.

committees, and the Standing committee on civil law legislation (lagutskottet) gives an opinion on the proposal from the Government.

*The Government* is in charge of the promulgation of Ordinances such as the Ordinance on the reception of asylum seekers. An Ordinance is founded on law and in practice it is a more practical guidance on how to apply the law in practice.

Further regulations or instructions are presented by the competent authority. Regarding asylum seekers, the *Swedish Migration Board* is the Swedish State authority in charge of the reception of asylum seekers. The Board issues instructions presented in the Board's statute-book and, further, there is a Migration Board's Aliens handbook, with more internal instructions within the Board.

In accordance with the Act on the reception of asylum seekers § 2, the Migration Board has the main responsibility for the reception of foreigners that are under the scope of the application of the Act. Further, in general and in accordance with the Aliens Act ch. 4 § 6, the Migration Board should take decisions concerning the application of the basic regulations concerning refugees and people otherwise in need of protection (subsidiary protection).

Also otherwise regarding residence permits the Migration Board should take the decision (the Aliens Act ch. 5 § 20). However, also the Government's Office could take decisions on residence permits.<sup>7</sup>

Regarding health care it is the regional *County councils* that are in charge of public health care services. In accordance with the Health and medical treatment Act § 4, the County councils are obliged to immediately offer treatment to people who are staying in the county council's area of responsibility. Regarding asylum seekers that obligation means a duty to provide acute health care services.<sup>8</sup> Medical treatment that is not acute – or if the risk to wait is considered to be moderate – should not be reimbursed by the State.<sup>9</sup>

Concerning health care further regulations are found in the Ordinance on charge for nursing care for certain foreigners.

Beyond strict acute treatment the asylum seekers' access to health care is regulated in an agreement between the Government and the Swedish Association of Local Authorities and Regions (Svenska Kommunförbundet och Landstingsförbundet i samverkan). The agreement – replacing a former agreement on the matter – came into force at July 1, 2006, and is supposed to regulate asylum seekers' right to health care awaiting a regulation in law on the matter. An important aspect of the agreement is that the health care service will be reimbursed for providing health care for the asylum seekers not embraced by the general regulations on the matter. Further, a proposal for a supplementary regulation on the matter is being prepared by the Government.<sup>10</sup>

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<sup>7</sup> Further, the Government has a particular authority to take decisions in very specified and particular situations (see the Aliens Act ch. 23). The regulation will apply for instance in war situations when the Government could issue regulations concerning foreigners' right to enter Swedish territory.

<sup>8</sup> Compare the Ordinance (1996:1357) on State compensation for health- and medical treatment to asylum seekers. Further, see Socialstyrelsens allmänna råd 1995:4 Hälso- och sjukvård för asylsökande och flyktingar.

<sup>9</sup> Government's proposition 1993/94:94 Mottagande av asylsökande m.m.

<sup>10</sup> See Utrikesdepartementet, Sverige, Underrättelse om nationella åtgärder för att uppfylla Sveriges förpliktelser i Europeiska unionen, bilaga 15. (Communication from the Swedish Foreign Ministry to the European Commission, Attachment 15.) See also Government's proposition 1993/94 :94 Mottagande av asylsökande m.fl.

Following an amendment of the Act on the reception of asylum seekers, which came into force on July 1, 2006, it is the local municipality that should be responsible for the accommodation of unaccompanied asylum seeking children and the children's needs. (amendment of Act on the reception of asylum seekers §§ 2 and 3 made through SFS 2006:177 entered into force on July 1, 2006).<sup>11</sup>

Practically, the Migration Board's accommodation places and living for these children should be transmitted to the local authorities who took over the responsibility. Hence, in principle the Migration Board should restrict its activity to assign the children to municipalities, and then it should be the local authority that will take care of the child, referring to the Social services Act and it is the duty of the local authority to provide for persons staying in the municipality.

Concerning schooling – see Q.31B.

Q.4. Adjustments have been made both in different Acts, mainly in the Act on the reception of asylum seekers, in the Ordinance on the reception of asylum seekers and in the instructions issued by the Migration Board. A basic ascertainment regarding the implementation of Directive 2003/9 into Swedish law is that only minor adjustments have been necessary, since the established regulations and practice in the main were in line with the Directive.<sup>12</sup>

Q.5. Hence, already before the Directive was taken by the Council, Sweden had regulations concerning the reception of asylum seekers. Further, there already was a judicial practice as well as a practice developed by the competent State authority.

Q.6. In the main all the necessary texts have been taken in order to ensure the effective implementation of the Directive. However, there are certain matters that have been discussed, but it is an empirical question for the future to see if the implementation will be fully effective in practice. An example is the division of responsibility between the Migration Board and the local authorities in municipalities concerning unaccompanied children seeking asylum. There are critics warning that the transfer of responsibility to the local authorities will not be the best solution for taking care of these children's need.

## **2. BIBLIOGRAPHY**

Q.7. In an Official report presented in 2003 the existing regulations concerning the reception of asylum seekers were examined.<sup>13</sup> Further, the practical dealing with the reception of asylum seekers was investigated. The public investigation was appointed by the Ministry of Foreign Affairs. The minister in charge was the Migration minister Mrs. Barbro Holmberg and the investigator appointed was (regeringsrådet) Mr. Mats Melin from the Government's office. A practical field study on the reception conditions was presented. The main conclusion from the Official report was that Swedish law in the main was in accordance with the Directive and only minor amendments were suggested.<sup>14</sup>

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<sup>11</sup> Government's proposition 2005/06:46 Mottagande av ensamkommande barn. Concerning children – see also Q.32A.

<sup>12</sup> Official report SOU 2003:89 EG-rätten och mottagandet av asylsökande.

<sup>13</sup> Official report SOU 2003:89 EG-rätten och mottagandet av asylsökande.

<sup>14</sup> The Official report SOU 2003:89 EG-rätten och mottagandet av asylsökande is available on the Government's website: <http://www.regeringen.se/sb/d/108/a/1429>

Q.8. There is no recent scientific book or article published about the transposition of the Directive into Swedish law.

Q.9. Concerning interesting judicial practice, there are no cases to report on especially concerning the Directive. However, there are some previously judicial decisions that are relevant to refer to; see Q.21E.

### **3. GENERAL INFORMATION ABOUT THE SYSTEM OF RECEPTION CONDITIONS**

Q.10. Primary the Migration Board is the authority in charge of the reception of asylum seekers, although the first official representatives the foreigner meets at the border is from the police or maybe a customs officer, but as soon as it is clear that a foreigner seeks protection the Migration Board takes over.

The Migration Board makes an investigation, an application for asylum is drawn up, information on reception conditions etc. should be given, the foreigner's accommodation is arranged etc. A remark to be observed when analysing the reception of asylum seekers, is that also an application for so called subsidiary protection explicitly should be treated as an application for asylum.

An asylum seeker waiting for a decision on the application for asylum can choose between living with relatives or friends or in any of the apartments rented by the Migration Board. During the waiting period the asylum seeker is expected to participate in organised activities, such as learning the Swedish language or practical helping to other foreigners coming to Sweden.

An asylum seeker with money should pay for his or her living, but if the applicant does not have any money he or she is entitled to a daily allowance (dagersättning) and other facilities for daily life.

Asylum seekers are entitled to acute medical treatment and dental service. Asylum seekers under the age of 18 have the right to free medical treatment and dental service. However, all asylum seekers and their relatives are entitled to a free, voluntary examination of health. The aim is to find out if there is an immediate need for medical treatment. Another reason is to see to society's need for infectious measures.

Local authorities are entitled to State financial compensation or reimbursement for the dealing with asylum seekers. The subsidies are – among others – for health care, dental care and schooling.<sup>15</sup> As mentioned above (see Q.3) there is an agreement between the Government and the Swedish Association of Local Authorities and Regions concerning State compensation for health care beyond acute treatment to asylum seekers. Further, a supplementary legislation on the matter is being prepared by the Government (see Q.3).

Asylum seeking children should be kept together with their families and the children are entitled to schooling and health care. Special attention should be paid to unaccompanied

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<http://www.regeringen.se/sb/d/108/a/1429>

<sup>15</sup> See the Ordinance (2002:1118) on state compensation for asylum seekers.

children and children having certain needs.<sup>16</sup> Further, the local authority should be responsible for unaccompanied children when the Migration Board has assigned the child to a place in a municipality.

Asylum seekers are entitled to accept employment and work if the Migration Board's dealing with the application for asylum could be calculated to take more than four months. If the employment is somewhere in a place where the Board cannot offer a place to live, the asylum seeker has the right to benefit for housing, if the work lasts for more than three months.

In order to facilitate the introduction of the asylum seeker in society there is a need for co-operation between different authorities. The Swedish Labour Market Board, the Swedish Migration Board, the Swedish Integration Board, the Swedish Board of Education, the Swedish National Agency for School Improvement and the Swedish Association of Local Authorities have agreed to develop an introduction for refugees and other immigrants.<sup>17</sup>

According to the agreement the asylum seeker's educational background and work experience shall be examined. Individuals with working experiences shall have a certain right to consultation at the local employment office. Should the result from the application procedure be the granting of a residence permit, the co-operation between different authorities will continue in accordance with the agreement. However, even if the agreement concerning the introduction in society, plans, programmes etc. is very ambitious, there have been problems realising the intentions.<sup>18</sup>

In 2005 a temporary regulation in the former Aliens Act was taken by the Riksdag. Rejected applications for asylum and decisions on expulsion that – for any reason – had not been executed, could be reconsidered in accordance with the new Act, which came into force in November 15, 2005 (see SFS 2005:762).<sup>19</sup> The foreigners embraced – many were keeping away – by the amendment, should hand in another application for a residence permit, or otherwise the Migration Board could bring up the matter for a new consideration before March 31, 2006. Following this temporary procedure around 30,000 foreigners applied for residence permits and the number of occupied places in accommodation centres was increasing temporarily.

Q.11. In principle, the Migration Board shall offer the asylum seeker a place at an accommodation centre. This follows from the regulation in the Act on the reception of asylum seekers. However, by way of introduction a comment should be made regarding the term “accommodation centre” (“förläggning”) used in regulations. Practically, the procedure is that the reception of the asylum seeker will take place in an application centre. When the application for asylum (or subsidiary protection) is made at the centre, the foreigner will be accommodated in an apartment provided by the Migration Board or the foreigner could choose to stay with relatives or friends already in Sweden.

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<sup>16</sup> See also the Migration Board's Aliens handbook (ch. 33.8).

<sup>17</sup> Agreement on the development of the introduction of refugees and other immigrants. (Revised in March 1, 2004.)

<sup>18</sup> See Integrationsverket (the Swedish Integration Board), *Integrationsverkets rapport 2000:5 Integrationsverkets kartläggning av kommunernas introduktionsverksamhet*. See also Riksrevisionen (the State Audit Institution), *Statliga insatser för nyanlända invandrare, Stockholm 2006*.

<sup>19</sup> The Riksdag's standing committee on social questions 2005/06:SfU5 Ny prövning av avvísings- och utvisningsbeslut.

Further, when the application has been made and the foreigner is registered, he or she will be entitled to reception conditions founded on the Act on the reception of asylum seekers, even if there is a temporary and very short stay in an application housing (see below) waiting for a more permanent lodging.

In Sweden there is no division of accommodation in relation to different stages of the asylum procedure beyond the beginning of the procedure, which starts with a visit at one of the Migration Board's application units (in Stockholm, Göteborg, Malmö, Norrköping or Gävle, where the first steps in the procedure are taken, for instance registration of the application for asylum or protection.<sup>20</sup> (The system with application units as well as application housing [see below] has replaced the former "transition units" from September 1, 2006.)

If the applicant needs an accommodation arranged by the Migration Board, he or she could stay temporary in a so called "application housing" (in Stockholm, Göteborg or Malmö). Further, the reception conditions should apply from the first day when the application for asylum etc. is handed in to the Migration Board.

If the foreigner arrives at the airport and declares that he or she will apply for asylum or protection, the foreigner will meet the Migration Board staff. A refusal of entering Sweden should – regarding an asylum seeker – be taken by the Migration Board (the Aliens Act ch. 8 § 4).

It is also possible that the foreigner applies for asylum after a short stay in Sweden, and if so the application normally is made at the nearest application unit. In such cases the foreigner often already might be living with friends or relatives in Sweden. In fact most of the asylum seekers apply for asylum after staying for a period in Sweden.

Regularly a foreigner seeking asylum will be transmitted to the nearest Migration Board's application unit. The units are open 24 hours and the Migration Board's staff are always ready to help the asylum seekers to satisfy their acute need for lodging, and they will also give basic information regarding the reception of asylum seekers. A stay at an application housing is – as mentioned above – supposed to be short. A practical examination of the asylum procedure has shown that normally the stay a former transit unit could be expected to be not more than five days.<sup>21</sup>

If the foreigners agree, family members should be kept together as far as possible.<sup>22</sup>

The initial examination is concerning the fulfilment of basic requirements for staying in Sweden and the application for asylum is set up. The examination could for instance — referring to the Dublin II regulation – deal with if the application for asylum should be made in Sweden.

When the application for asylum is made, there is an introductory meeting at the application unit and the registration is dealt with. The applicant has to give an account for incomes, cash and other personal circumstances relevant to the decision on assistance and decisions are

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<sup>20</sup> See for instance the Official report SOU 2003:89 EG-rätten och mottagandet av asylsökande, p. 47.

<sup>21</sup> Official report SOU 2003:89 EG-rätten och mottagandet av asylsökande.

<sup>22</sup> That is stated in the Ordinance on the reception of asylum seekers § 2c. Further, in § 2d there is a corresponding regulation concerning unaccompanied children and efforts should be made to find family members. (Amended through SFS 2005:16.)

taken concerning the daily allowance and housing is offered. Further, the asylum seeker should also receive information regarding the right to appeal against decisions taken by the authorities.

The foreigner gets a receipt of the application of asylum; photographs are taken for the issuing of an LMA card (the document refers to the Directive, article 6.1). Hence, from this point the foreigner is covered by the Act on the reception of asylum seekers (see the Act § 1.1), and he or she is entitled to assistance in accordance with the Act. (See also Q.14.)

Regarding housing the applicants for asylum are asked about how their living should be arranged. Regularly they are offered a place at an accommodation centre, but they are also informed that they are free to stay with relatives or friends.

An important aspect of the procedure is the *right to appeal* against decisions taken by the State. In April 30, 2006, a new legal procedure concerning appeal against decisions taken by the Migration Board was introduced through the new Aliens Act.<sup>23</sup> The former Aliens Board dealing with appeals against the Migration Board's decision was laid down and a Migration Court should be the new authority dealing with appeals (the Aliens Act ch. 16). Appeals against the decision taken by the Migration Court should be dealt with by the Supreme Migration Court (ch. 16 § 9).

The meaning of the new procedure was to introduce a clear two-party procedure and also to reduce the former order when an asylum seeker after a rejection of the application for asylum could hand in another application and restart the process. The result was often very long time dealing with a case leading to human suffering for the individual.<sup>24</sup>

In accordance with the new Aliens Act ch. 14 § 3 a decision taken by the Migration Board on expulsion, a rejected application for a residence permit and more, may be appealed against at a Migration Court. Further, a decision to keep a foreigner in custody and more should be appealed against in a Migration Court (ch. 14 § 9). If there is an appeal against a decision referring to the Aliens Act ch. 8 § 6 (refused entry because there was obviously no ground for granting asylum) it should be tried if the execution of the decision not to enter Sweden should be inhibited (the Aliens Act ch. 12 § 10).

Also the Government can take a decision to cancel the execution of a decision to refuse entry or to expel a foreigner (see the Aliens Act ch. 12 § 11).

In accordance with the Aliens Act ch. 14 § 2 a decision taken by a police authority can be appealed against at the Migration Board. A decision to refuse entry to Sweden taken by the police can be executed even if there is an appeal against the decision (the Aliens Act ch. 12 § 6). However, regarding asylum seekers a decision to refuse entry – as stated above – should always be taken by the Migration Board.

A general note to be observed is that when taking decisions on expulsion, the refolement regulations in the Aliens Act ch. 12 §§ 1–3 should always be considered.

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<sup>23</sup> Government's proposition 2004/05:170 Ny instans- och processordning i utlännings- och medborgarskapsärenden.

<sup>24</sup> See Government's proposition 2004/05:170 Ny instans- och processordning i utlännings- och medborgarskapsärenden, pp. 105 f. Further, oral dealing before a decision is taken was emphasised.

When the foreigner's application for asylum is made the right to appeal will focus on other decisions dealing with the asylum seeker's situation. A decision referring to the Act on the reception of asylum seekers, taken by the Migration Board or a Social welfare board, could be appealed against at an Administrative court, more specifically the County administrative court in the district where the asylum seeker was staying at the time the decision was taken (see the Act on the reception of asylum seekers § 22). However, a decision on assistance based on the Act on the reception of asylum seekers has immediate effect. (See also Q.22.)

Concerning the right to legal assistance there is a regulation in the Legal aid Act (1996:1619). In accordance with § 4 legal aid might be given for two hours by a lawyer (or an assistant lawyer). The client should pay a fee for the advice, but the adviser may set down the fee to 50 percent referring to the client's economic resources. If the client is a minor the fee can be fully reduced for the same reason. Further, the legal adviser is entitled to a reasonable compensation from the State, including compensation for the use of an interpreter.

(On matters concerning expulsion and more, a public assistant (offentligt biträde) should be appointed in accordance with the Aliens Act ch. 18.)

#### **4. GENERAL RULES ON RECEPTION CONDITIONS**

Q.12A. Different forms of reception conditions are available (compare the Directive, article 13). In accordance with the Act on the reception of asylum seekers § 13 assistance is provided for as a

- daily allowance (dagsersättning),
- particular allowance (särskilt bidrag),
- compensation for housing (bostadsersättning).

The daily allowance is paid in money and should cover expenses for food-stuffs, clothes, free time activities, hygiene products and other articles of consumption (the Ordinance on the reception of asylum seekers § 4<sup>25</sup>). A precondition for this entitlement is that the foreigner does not have money to pay for his or her own living.

The daily allowance is 7,6 Euro (SEK 71) for a single person; 6,6 Euro (SEK 61) for a person who is living together with another person; 4 Euro (SEK 37) for children 0–3 years old; 4,6 Euro (SEK 43) for children 4–10 years old; 5,4 Euro (SEK 50) for children 11–17 years old and 6,6 Euro (SEK 61) for a home staying adult. (The amounts are including the foreigner's own food providing; Ordinance on the reception of asylum seekers § 6, and a precondition is that the foreigner cannot provide for him or herself; compare the Directive, article 13.3.)

Further the daily allowance should cover health care costs, dental care costs, phone calls, medicine and more, if such costs are not covered by the Ordinance on charge for nursing care for certain foreigners (the Ordinance on the reception of asylum seekers § 5). The daily allowance is reduced when free food is included in lodging (§ 6). Finally, there are reductions for families with more than two children (§ 6).

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<sup>25</sup> See also the Migration Board's Aliens handbook (ch. 33).

The particular allowance should be granted in order to provide for certain needs. The examples presented in the Ordinance on the reception of asylum seekers § 7 are for instance winter clothes, glasses, handicap equipment and equipment for babies. The allowances can also cover fees for health care, medicine and charges for nursing care.

The housing normally is in flats depending on the circumstances and it is provided in-kind. By “in-kind” I mean that the asylum seeker has a right to accommodation and that he or she will not have to pay if they don’t have money to pay with. If the asylum seeker has money he or she should pay a reasonable compensation to the Migration Board (the Act on the reception of asylum seekers § 15).

If food is provided the asylum seeker will have a reduction on the daily allowance. The reduction is specified in the Ordinance. In practice the providing for food or money is dependent on for instance the number of asylum seekers living in a flat etc. It is often more practical to let the asylum seeker have a sum of money to buy the food, and if so there is no reduction of the daily allowance.

The compensation for housing is only for those who have been granted a working permit, have been employed or offered an employment for at least three months and in order to take the employment must move to a place where the Migration Board cannot offer housing (the Ordinance on the reception of asylum seekers § 4).<sup>26</sup> The compensation is 37,8 Euro (SEK 350) per month or 91,8 Euro (SEK 850) per month if also the foreigner’s family moves to the other place.

A person covered by the Act on the reception of asylum seekers is not entitled to assistance founded on the Social services Act. (See the Act on the reception of asylum seekers § 1.) However, unaccompanied children seeking asylum are embraced by the Social services Act. These children should be assigned to a municipality that in practice often has concluded an agreement with the Migration Board concerning the reception of the children.<sup>27</sup>

When a child has been assigned to a municipality, the child is considered to stay in that municipality in accordance with the Social services Act 2 ch. § 2.<sup>28</sup> Hence, the local authority has the responsibility for the child and for providing the child with the support and help that the child needs.<sup>29</sup> The form of the assistance depends on what kind of assistance the child needs. Hence, a certain amount or form for the service is not specified.

Concerning unaccompanied children and the local authorities’ responsibility referring to the Social services Act, there are critics on the field fearing that this division of labour between the Migration Board and municipalities on the local level will not work, and that it would be a better solution to assign the Migration Board to have the responsibility for the child.

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<sup>26</sup> Government’s proposition 2004/05:28 Bostadsersättning för asylsökande. In accordance with the proposition the compensation for housing was taken away for asylum seekers living on their own and not fulfilling the requirements. See also instructions from the Migration Board, Migrationsverkets föreskrifter om ändring i Migrationsverkets föreskrifter (MIGRFS 2003:10) om mottagande av asylsökande m.m.

<sup>27</sup> Such an agreement is a prerequisite for the local authority’s right to certain stereotyped financial contributions for unaccompanied children.

<sup>28</sup> See also the Migration Board’s Aliens handbook (ch. 33.8).

<sup>29</sup> In Government’s proposition 2005/06:46 Mottagande av ensamkommande barn, it is stated that the Migration Board will have the overall responsibility for the child, but the consequences of the division of responsibility between the Board and the local authorities in the municipality should be subject to further investigation by the Board. (See Government’s proposition 2005/06:46, p. 39.)

Q.12B. The amount of money paid as a daily allowance etc. should be sufficient “to ensure a standard of living adequate for the health of applicants and capable of ensuring their subsistence” (the Directive, article 13.2).

The level of assistance to asylum seekers is fixed by the Government in the Ordinance on the reception of asylum seekers (§ 6), and a leading word is that the level should secure a “tolerable” standard of living.

Comparatively, the right to assistance in accordance with the Social services Act, should be enough to secure a “reasonable level” considering the receiver’s standard of living, the amount of money provided as assistance to asylum seekers is low.<sup>30</sup> Further, critics have pointed out that the levels for assistance to asylum seekers have been fixed since 1994, and that today the level must be considered to be too low.

In order to make a more precise specification you must consider that it is difficult to compare the daily allowance and other compensation to asylum seekers with the norm that follows from the Social services Act. When the Social services Act should apply the amount is specified in the Social services Ordinance (2001:937) ch. 2 § 1, but this amount is based on a calculation of a person’s or family’s needs and more. In accordance with the Ordinance a single person should have 280,5 Euro (SEK 2600) per month and a couple 506 Euro (SEK 4690). However, a flat, telephone, TV, newspaper etc. is not included and could lead to more compensation, which could vary for instance referring to the size of a person’s flat and more. Further, the amount specified is a minimum and the sum to apply could vary in different municipalities. A Swedish citizen will be reimbursed for more costs dependent on the circumstances in the individual’s situation compared with an asylum seeker that will have an allowance on around 226,5 Euros (SEK 2.100) and with a more restricted possibility to have reimbursement for many additional costs.

Hence, one could estimate that the allowance granted for an asylum seeker, in accordance with the Ordinance on the reception of asylum seekers, is around maximum 80 percent of the norm to be applied in accordance with the Social Services Act, but at the same time this comparison is a grave estimation that do not consider the possibility to have extra benefits based on the Social Services Act, and the asylum seeker will not be entitled to these benefits. Hence, in practice the asylum seeker will maybe have not more than 40–50 percent of the norm stipulated in the Social Services Ordinance, but I will emphasize that any specification of an exact figure on the matter could be questioned. (The sums specified above do not include lodging.)

## **5. PROCEDURAL ASPECTS**

Q.13A. A request for international protection in accordance with the Aliens Act ch. 4 § 2 should be explicitly be dealt with as an application for asylum (see the Aliens Act ch. 1 § 12). This regulation should not apply if the foreigner explicitly requests otherwise. (Compare the Directive, article 2b.)

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<sup>30</sup> In the Migration Board’s Aliens handbook (ch. 33) it is explicitly stated that there is no connection between the level of assistance in accordance with the Act on the reception of asylum seekers and the national standard that is recommended by the the National Board of Health and Welfare for the application of the the Social services Act.

Q.13B. The scope of application of the Act on the reception of asylum seekers embraces both persons who have applied for residence permit referring to the Aliens Act ch. 4 § 1 as well as persons who have applied for protection referring to ch. 4 § 2 and even other forms of international protection (see the Act on the reception of asylum seekers § 1.1–3). Hence, the Act on the reception of asylum seekers also embraces a person who applies for a residence permit referring to “particular distressing circumstances” (the Aliens Act ch. 4 § 6) as well as people who have been granted residence permit for temporary protection (the Aliens Act ch. 21) and some more. If a child should be granted a residence permit referring to the Aliens Act ch. 4 § 6, the requirements for granting the permit could be set lower than for adults.

Q.13C. Regarding reception conditions in case of diplomatic or territorial asylum requests submitted through a diplomatic or consular representation, there are no regulations found in Swedish law (compare the Directive, article 3.2, which is not mandatory), and there are no regulations concerning reception conditions in such cases found in the Act on the reception of asylum seekers.<sup>31</sup>

Q.14. In principle reception conditions should be available from the moment the asylum application is made (in accordance with the Directive, article 13.1). Beyond the daily allowance regulated in the Act on reception of asylum seekers, there is a certain contribution for special needs (§ 18; for instance for winter clothes at the arrival).

A precondition for the entitlements is that the foreigner is registered at an accommodation centre; in practice an application centre (the Act on reception of asylum seekers § 8). (Concerning the point of time for access to benefits, see also Q.11, and concerning the term “accommodation centre”, see also Q.23.) Further, more detailed regulations concerning for instance the periodizing of benefits and more are found in the Migration Board’s statute-book.<sup>32</sup>

The public investigation presented in 2003 shows that in practice more than 50 percent of the asylum seekers had access to benefits, for instance the daily allowance, within one to three days.<sup>33</sup> In practice sometimes delays for different reasons had occurred, uncertainty regarding the application, misunderstanding etc. that may have caused imperfections. However, the conclusion from the public investigation was that Swedish law fulfils the requirements from the directive.<sup>34</sup>

Q.15. In principle the right to assistance will cease if the foreigner is granted a residence permit or if the foreigner leaves Sweden (the Act on the reception of asylum seekers § 11).

A foreigner that has been granted a residence permit but still is staying in a Migration Board accommodation centre, is entitled to assistance if he or she has not been assigned a place – or has not been able to utilize such an assignment – in a local municipality (§ 8). A foreigner that is not staying in a Migration Board accommodation centre is entitled to assistance during a month after a residence permit has been granted (§ 8).

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<sup>31</sup> Looking back, in exceptional situations in the 1970s there were cases when Chileans applied for asylum directly at the Swedish embassy in Santiago.

<sup>32</sup> See also MIGRFS 2003:10 Migrationsverkets föreskrifter om mottagande av asylsökande m.m.

<sup>33</sup> Official report SOU 2003:89 EG-rätten och mottagandet av asylsökande, p. 139.

<sup>34</sup> Official report SOU 2003:89 EG-rätten och mottagandet av asylsökande, p. 144.

A foreigner that is keeping away or is hiding so that a deportation order cannot be executed, is not entitled to assistance (§ 12).

Further, the daily allowance can be reduced or withdrawn if the asylum seeker refuses to take part in organised activities without a valid reason, if he or she obstructs the investigation in the case, does not cooperate to clarify the personal identity or makes it difficult to carry out the investigation concerning the right to residence permit by keeping away (the Act on the reception of asylum seekers § 10).<sup>35</sup>

Concerning reduced allowances the reason presented by the foreigner for not, for instance, participating in organised activities should be considered.<sup>36</sup> If the foreigner is offered a place in a Migration Board accommodation centre and free food is included, the daily allowance might be withdrawn (the Act on the reception of asylum seekers § 10). (Concerning reduction or withdrawal of assistance – see also Q.21A.)

An appeal introduced by the asylum seeker against a decision (see also Q.22), will not lead to a withdrawal or a reduction of the assistance. The person will still be considered as an asylum seeker and is entitled to the assistance in connection to that legal status. That follows indirectly from the Act on the reception of asylum seekers §§ 10–12 where the basis for possible reductions etc. of assistance are stipulated.

Q.16. Regarding reception conditions in case of successive applications for asylum introduced by the same person, the Act on the reception of asylum seekers should apply. A successive application means that the person as an asylum seeker will be embraced by the Act.

A considerable consequence is that in such cases the Act on the reception of asylum seekers (§ 1) stipulates that the person should not be embraced by the Social services Act (see also Q.12A). Hence, in case of successive application the asylum seeker will lose his or her benefits founded on the Social services Act, for instance the right to housing supplementary allowance.

In an integration perspective this could be very negative for the individual, since he or she may not be able to pay the rent for an apartment, which might lead to a report and execution from the enforcement service and, further, to a record for non-payment of debt. Following this, in the future the person will have trouble getting for instance a bank loan.

Such consequences will often occur, according to informants. However, practically in certain municipalities the parties await the registration of the asylum seeker in order not to put the individual concerned in an awkward situation, although this dealing with the matter is not in accordance with law, it is more a humanitarian way to deal with the situation.

Q.17A. In accordance with the Ordinance on the reception of asylum seekers (amendment through SFS 2005:16), the Migration Board should inform the asylum seeker on different

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<sup>35</sup> In the Official report 2003:89 EG-rätten och mottagandet av asylsökande it was discussed whether the possibility to reduce or withdraw allowances was in accordance with the Directive. However, a precondition was that the foreigner's need could be met in any other way, and a recommendation from the investigation was to clarify this in an instruction on the application of the regulations concerned. (See the Official report, p. 152 ff.)

<sup>36</sup> Compare Government's proposition 1993/94:94 Mottagande av asylsökande m.m., p. 49.

benefits and forms for assistance and how to obtain them (§ 2a). Before the amendment made in 2005 Swedish law did not explicitly regulate this right to information in certain respects.<sup>37</sup>

In the Migration Board's Aliens handbook (ch. 33) there is a detailed list of the content of the information provided. For instance, information should be presented concerning the Act on the reception of asylum seekers, including the entitlements referring to the Act, the right to health and medical care, regarding work permits, information on parenthood, Swedish legislation and more.

Q.17B. The asylum seeker should obtain written information on different benefits etc.<sup>38</sup> If there is a need for it information should also be presented orally (the Ordinance on the reception of asylum seekers § 2a).

Also in the Migration Board's Aliens handbook there are instructions that the foreigner at the registration at a Migration Board accommodation centre should be informed about allowances, right to health and dental care and more. In practice also written information is provided in many languages.<sup>39</sup> Regarding languages, translation to new languages is continuously made depending on what nationalities that for the moment are seeking asylum.

Further, at the local Migration Board centres information on the local society is provided (local map, where social and commercial service is situated etc.).

A practical problem for the moment seems to be that information, fact sheets etc. should be made up to date, and since the new Aliens Act came into force in April 2006, delays in practice regarding written information on certain matters have been reported at least from one accommodation centre. Hence, referring to such circumstances the reporter has received somewhat contradictory information from the local level.

The UNHCR representatives state that in accordance with their experiences the asylum seekers receive both written and oral information. Hence, the kind of problems on this matter reported at the local level should be considered to be temporary.

However, from NGOs there are reports that there are sometimes problems in getting correct information, and both UNHCR and NGO representatives underline the need for current information and to make sure that the asylum seeker really understands the information, which is a practical problem to consider.

Q.17C. In accordance with the Ordinance on the reception of asylum seekers, the information should be provided as soon as possible and not later than 15 days after the application for a residence permit (§ 2a).

The practical evaluation of the application of the asylum seeker's right to information, made by a public investigation and which was presented in 2003, showed that the asylum seekers in

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<sup>37</sup> Official report SOU 2003:89 EG-rätten och mottagandet av asylsökande, pp. 50 f.

<sup>38</sup> An example is Migrationsverket (the Migration Board), Reception of asylum seekers in Sweden (fact sheet), see (in English) [http://www.migrationsverket.se/infomaterial/asyl/allmant/mottagandet\\_en.pdf](http://www.migrationsverket.se/infomaterial/asyl/allmant/mottagandet_en.pdf)

<sup>39</sup> The Migration Board's introducing fact sheet on these matters was at a certain point of time in 2003 available in seven languages: Albanian, Arabic, English, French, Spanish and in a commonly understood version for people from Bosnia, Croatia and Serbia. See Official report SOU 2003:89 EG-rätten och mottagandet av asylsökande, p. 46. In 2006 there are examples in practice that some fact sheets are presented in more languages. The number of languages is depending on the number of nationalities of the asylum seekers at the moment.

practice obtained the information requested, as soon as possible and not later than 15 days after the application for residence permit.

The reporter has not received any information indicating that the regulation is not followed. However, compare Q.17B and the remarks made by UNHCR and NGOs.

Q.18A–B. In accordance with the Ordinance on the reception of asylum seekers, the asylum seeker should have information about organisations or groups providing judicial assistance. Further, information should be given concerning organisations giving support or information on the right to reception conditions, health care and medical service (§ 2a; amendment through SFS 2005:16; compare the Directive, article 5.1).

The Swedish representatives from UNHCR have the impression that asylum seekers are informed about different organisations, although it is underlined that the information could be improved. Further, there are examples that NGOs have been invited to inform about the organisations' activities concerning asylum seekers. A practical problem regarding information about NGOs etc. follows from the fact that the asylum seekers are dispersed, living in different places, in apartments etc., which however from other points of view is considered to be positive.

An example of regular meetings, exchange of information and planning between the Migration Board and NGOs, is the activity at the accommodation centre in Boden (a town in the north of Sweden). Once a month or at least every second month the Migration Board staff meets NGO representatives, and once a year they arrange a day devoted to a particular theme or topic.

In practice there is no existing central list of organisations. Practitioners on the field report that the information provided is very much dependent on local initiatives, and this impression is confirmed by the NGOs in Sweden. An informant from an accommodation centre has indicated that in practice it is up to the official dealing with a case to inform the asylum seeker regarding supporting organisations. Hence, a recommendation from the reporter is to set up a central list of the NGO organisations and other groups supporting asylum seekers and to make it open for completion on the local level.

Q.18C. The Ordinance on the reception of asylum seekers does not stipulate anything about the language regarding this kind of information. However, an informant from an accommodation centre reports that information is available in different languages that varies depending on what nationalities that are seeking asylum. (Compare Q.17B.)

Q.18D. Six or more NGOs are active in Sweden and are working with asylum seekers and refugees.<sup>40</sup> However, beside there are also other groups such as local organisations, temporary groups and people active within the church.

Q.19A. The asylum seeker is provided with an LMA card issued by the Migration Board (compare the Directive, article 6.1). Regulations on the issuing of the card are found in the

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<sup>40</sup> Amnesty, Caritas Sverige (Caritas Sweden), Flyktinggruppernas och Asylkommittéernas Riksråd (FARR ; not in English), Rådgivningsbyrån (Swedish Refugee Advice Centre), Rädda Barnen (Save the Children Sweden) and Röda Korset (Red Cross Sweden) have been contacted for the present study. However, the reporter will point out that the list of organisations active on these matters is not complete.

Ordinance on the reception of asylum seekers and – in detail – in the Migration Board’s statute-book.<sup>41</sup>

The LMA card certifies the foreigner’s right to entitlements granted to an asylum seeker, including the right to stay on Swedish territory until the application for a residence permit has been dealt with. The LMA card does not fulfil the requirements of a legal identity card, although there is a photograph on the document showing the card holder. (Concerning these matters the Ordinance on the reception of asylum seekers was amended in 2005 through SFS 2005:16.)

Q.19B. Further, the receipt of the application for asylum (see Q.11) is a temporary document that certifies the asylum seeker’s legal status as an asylum seeker waiting for the LMA card to be issued, which should be done within fourteen days (compare the Directive, article 6.2).<sup>42</sup> In practice the receipt is connected to a document with a photograph of the asylum seeker, and the receipt works as a proof of the asylum seeker’s right to health and medical care, discount on pharmacy products in pharmacies etc.

Q.19C. The LMA card’s period of validity varies depending on the estimation of how long the dealing with the application will take. However, in accordance with the Migration Board’s statute-book the maximum valid period is 6 months.<sup>43</sup> Further, the card could be renewed after the 6 months period or if the card is lost.

Q.19D. In line with the Directive, article 6.1, there is a regulation in the Ordinance on the reception of asylum seekers § 2b, stating that the asylum seeker should within three days be provided with a document that certifies his or her status as asylum seeker. However, the public investigation in 2003 claimed that there sometimes were practical obstacles to issuing a card within three days.<sup>44</sup>

When the application for asylum is made, the foreigner will have a written receipt showing that he or she has applied for residence permit referring to the Aliens Act. The receipt shows that the foreigner is applying for asylum, but it is not a formal document that can be compared with an LMA card.

Informants from accommodation centres have claimed that the issuing of an LMA card normally takes at least 1–2 weeks. However, the receipt on the application for asylum serves as a temporary document in most situations. Hence, the basic requirements from the Directive should be fulfilled (see Q.19B).

Q.19E. A travel document making it possible for an asylum seeker to travel to another State for “serious humanitarian reasons” referring to the Directive, article 6.5, was suggested by the public investigation in 2003.<sup>45</sup>

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<sup>41</sup> See MIGRFS 07/2005 Migrationsverkets föreskrift om Tillfälligt LMA-kort för utlänning i Sverige och dokument som intygar att innehavaren är asylsökande. (The Migration Board’s instruction on Temporary LMA-card for foreigners in Sweden and a document showing that the holder is an asylum seeker.)

<sup>42</sup> MIGRFS 07/2005 Migrationsverkets föreskrift om Tillfälligt LMA-kort för utlänning i Sverige och dokument som intygar att innehavaren är asylsökande § 7.

<sup>43</sup> MIGRFS 07/2005 Migrationsverkets föreskrift om Tillfälligt LMA-kort för utlänning i Sverige och dokument som intygar att innehavaren är asylsökande.

<sup>44</sup> Official report SOU 2003:89 EG-rätten och mottagandet av asylsökande.

<sup>45</sup> See Official report SOU 2003:89 EG-rätten och mottagandet av asylsökande.

In the new Aliens Ordinance, that came into force in 2006, there is a regulation in § 12 considering a certain travelling document. If a foreigner does not have a document for travelling that corresponds to a passport and the foreigner has no possibility otherwise to be granted such a document or if particular circumstances are present, the Migration Board might issue an Alien's passport (främlingspass) for travelling. Further, the Migration Board might issue a temporary Alien's passport if a foreigner has an immediate need to travel to or from Sweden (14 §).

The Alien's passport should be issued for at the longest a period of five years (the Aliens Ordinance § 13). Further, there might be a note in the alien's passport restricting the territory. It should also be possible to make a note in the passport if the foreigner's identity is not verified.<sup>46</sup>

Q.19F. A precondition to be entitled to the assistance granted asylum seekers, is that the foreigner is registered at a Migration Board accommodation centre (the Act on the reception of asylum seekers § 8). Hence, there is registration both on the local and central level, and the registration could be expected to be computerized.

However, there are restrictions concerning the aim with the register as well as what kind of information that should be stored. (See the Ordinance on treatment of personal particulars in activities referring to acts on aliens law and citizenship.<sup>47</sup>)

Q.20A. In principle the asylum seeker is free to move on the entire territory of Sweden. An exception (which in practice is extraordinary) is of course if the foreigner is taken into custody, for instance if it is necessary for an investigation (the Aliens Act ch. 10 §§ 1–2). (See also Q.33B.)

Q.20B. The asylum seeker is free to arrange his or her living, for instance with friends or relatives during the asylum procedure and around half of the asylum seekers prefer to arrange their stay in that way.<sup>48</sup>

Q.20C. A precondition for the right to assistance in accordance with the Act on the reception of asylum seekers, is that the foreigner is registered at a Migration Board accommodation centre (the Act § 8). However, from the right to arrange his or her living follows that the asylum seeker does not have to stay in the Migration Board accommodation centre in order to be entitled to assistance.

Q.20D. The Migration Board rents apartments for accommodation, if the asylum seeker does not him- or herself choose to arrange the accommodation.

The Board's aim is to spread the accommodations throughout the local municipality and certain employees at the Board are responsible for accommodation and for planning organised activities, in which the asylum seekers are expected to participate.

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<sup>46</sup> The latter was introduced in order to counteract the situation where asylum seekers throw away their passports or other identity documents.

<sup>47</sup> Förordning (2001:720) om behandling av personuppgifter i verksamhet enligt utlännings- och medborgarskapslagstiftningen.

<sup>48</sup> Compare Migrationsverket (the Migration Board), Årsredovisning 2005 (Annual report), p. 16.

The UNHCR experience is that there is enough capacity in the Swedish reception system. However, problems have occurred when the inflow of asylum seekers has peaked, for instance in the beginning of the 1990s. Further, certain disadvantages have been reported regarding asylum seekers living outside the accommodation centers, since difficulties have occurred in the contact between the Migration Boards officials and the asylum seeker when he or she has not been available.

Q.20E. In principle there are no restrictions on the asylum seekers right to travel on Swedish territory (except for situations when an asylum seeker is taken into custody etc. – see Q.33B). However, in practice the asylum seeker should take part in the investigation etc., which means that for practical reasons there could be restrictions. Further, in practice the asylum seeker should take part in organised activities depending among other things on the way the living is organised.

In November 2005 43 percent of the asylum seekers participated in organised activities. A total of 10,192 persons (including 2,996 women) participated; 3,660 persons studied the Swedish language, 2,237 persons were educated in return back matters, 492 persons took part in self management in accommodation centres and 1,470 in occupational practice.<sup>49</sup>

Q.21A. The assistance granted in accordance with the Act on the reception of asylum seekers could be reduced or withdrawn for different reasons (compare the Directive, article 16). If the foreigner refuses – without any valid reason – to participate in activities organised by the Migration Board, or makes it difficult to carry through the investigation on residence permit, or does not contribute to clarify his or her identity or is keeping away, the daily allowance could be reduced (the Act on the reception of asylum seekers § 10). (See also Q.15 regarding reduction or withdrawal of assistance.)

Further, for the same reasons the allowance could be withdrawn. In addition to that, the assistance could be fully reduced if a foreigner who is obstructing is offered a place in an accommodation where food is included. The allowance could also be fully reduced if the foreigner without any valid reason does not cooperate to execute a decision on expulsion (amendment in 2004 through SFS 2004:1377<sup>50</sup>). (See also Q.15.)

In 2003 a public investigation showed that the same year the Migration Board at the accommodation centre in Malmö during one month took the decision to reduce the daily allowance in 250 cases. The reason was that the asylum seekers had not participated in organised activities arranged by the Board.<sup>51</sup>

Concerning health care the County council should provide health care to persons who are staying in the district (the Health and medical treatment Act § 4) (See also Q.3.) The County councils will always provide acute health care, in practice even for asylum seekers that are keeping away.

Since the year 2000 children (up to the age of 18) have full entitlements concerning health and medical care (mental care included) as well as dental care on the same conditions as other children in Sweden, and the entitlements also embrace those who keep away (concerning certain problems regarding this, see Q.27B). Further, the County councils' cost should be

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<sup>49</sup> Migrationsverket (the Migration Board), Årsredovisning 2005 (Annual report), p. 15.

<sup>50</sup> Government's proposition 2004/05:28 Bostadsersättning för asylsökande.

<sup>51</sup> Official report SOU 2003:89 EG-rätten och mottagandet av asylsökande, p. 150.

reimbursed by the State in accordance with the Ordinance on state compensation for health and medical treatment for asylum seekers.

There has been a discussion concerning children's schooling when the family is keeping away, and it has been suggested that it should not be restricted in such situations. The matter is dealt with in an ongoing investigation.

However, the Migration Board claims that in practice the local authorities already have received compensation even for hidden children's schooling as a part of the extra compensation for asylum seeking children that was granted to local authorities in 2005, even though this purpose was not explicitly expressed in the decision.<sup>52</sup> However, if the family and the child is keeping away so that a decision on expulsion cannot be executed, the right to schooling should not apply (see Q.31B).

Q.21B. Refusal of reception conditions or assistance referring to "unreasonable late applications" (compare the Directive, article 16.2) has not, as far as the reporter knows, been applied to asylum seekers in Sweden, and there is no such regulation to apply for that reason. Neither have the UNHCR representatives any information saying that this kind of reason for a refusal has occurred.

Q.21C. The Migration Board is taking the decision to reduce or make a withdrawal of assistance referring to the Act on the reception of asylum seekers. Further, decisions on assistance based on the Act should have an immediate effect, even if a decision could be appealed against at the County administrative court in the relevant court district where the foreigner was staying when the decision was taken (the Act on the reception of asylum seekers § 22). The same applies to decisions taken by a social welfare board referring to the Social services Act (the Act on the reception of asylum seekers § 22). Fundamentally the Constitution ch. 1 § 2 regulates that the exercising of authority should be based on impartial grounds.

Q.21D. In Statement 14/03 the Council dealt with the withdrawal of reception conditions referring to the Directive, article 16. In accordance with the Act on the reception of asylum seekers § 10, the daily allowance could be reduced if the asylum seeker refuses to take part in organised activities. Regarding this the Swedish standpoint – according to officials at the Foreign Ministry – is that the level of assistance after the reduction fulfils the requirements raised by the Directive (the Foreign Ministry).

Q.21E. From the former judicial practice, there are some examples of cases to report on concerning assistance to asylum seekers. In Case 3565-1995 the Administrative court of appeal in Stockholm rejected an appeal concerning assistance for buying winter clothes. The applicant had had daily allowances for six months, and it should have been possible to save money for buying winter clothes.

In Case 1229-1995 the Administrative court of appeal in Jönköping rejected an appeal concerning assistance for buying maternity wear. The Court did not find the clothes necessary for a "tolerable living". (Compare Q.12B.)

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<sup>52</sup> Concerning the extra compensation, see Government's proposition 2005/06:1 Budgetpropositionen för 2006 Bilaga 11. See also Migrationsverket (the Migration Board), PM 2006-05-04 Utbetalning av ersättning för sociala insatser till asylsökande barn.

In a judgement in July 8, 1996, the Administrative court of appeal in Stockholm approved an appeal concerning particular assistance on 104,6 Euro (SEK 970) for repairing a pair of glasses.

Q.22A. As stated above a decision taken referring to the Act on the reception of asylum seekers, taken by the Migration Board could be appealed against at an Administrative court, more specifically the County administrative court in the district where the asylum seeker was staying at the time the decision was taken (the Act on the reception of asylum seekers § 22).

Since a decision on assistance taken by the Board has an immediate effect, an appeal against such a decision does not have a suspensive effect. (Regarding asylum seeking children staying in a municipality there is a corresponding regulation in the Social services Act ch. 16 § 3 on the local authority's responsibility concerning assistance referring to the Act ch. 4 § 1.)

Concerning the deadline for an appeal against a decision there is a general rule in the Public administration Act (1986:223) § 23. The appeal should be in writing and it should be handed in not later than three weeks from the day the complainant took part of the decision.

Regarding the Directive, article 7, and the Member State's possibility to put restrictions on the asylum seeker's right to choose where he or she will stay, there are in principle no such restrictions in Swedish law. However, the asylum seeker must participate in the investigation and he or she should take part in the activities organized by the Board etc. Hence, from these requirements restrictions could follow in practice (concerning the freedom of movement, see Q.20E, and concerning the right to choose where to live, see Q.24A).

Q.22B. Concerning the right to legal assistance (compare the Directive, article 21.2) there is a regulation in the Legal aid Act (1996:1619). In accordance with § 4 legal aid might be given for two hours by a lawyer (or an assistant lawyer). Regarding the fee for legal assistance, the reporter refers to Q.11.

Further, in the Aliens Act ch. 18 there are regulations on the appointment of a public assistant (offentligt biträde), but this regulation should apply in matters concerning expulsion and more.

Q.22C. Concerning the judicial practice – see Q.21E and the cases referred to (Case 3565-1995; the Administrative court of appeal in Stockholm concerning assistance for buying winter clothes, Case 1229-1995; the Administrative court of appeal in Jönköping concerning assistance for buying maternity wear, and the judgement in July 8, 1996; the Administrative court of appeal in Stockholm concerning particular assistance).

Q.22D. In principle it is possible to make complaints concerning the quality of the assistance, since the assistance is based upon a decision taken by an authority. However, regarding benefits in the form of a certain amount the “quality” fixed in law there is no problem from a legal point of view.

Concerning for instance the quality of the food in an accommodation centre, should preliminary be a matter for the centre. However, the more general and individualized assistance referring to the Social services Act could be subject to complaints on “quality matters”, for instance if a measure taken is the best measure considering a certain child's need in a specific situation.

## **6. RIGHTS AND OBLIGATIONS OF ASYLUM SEEKERS**

Q.23. According to the Aliens Act Ch. 5 § 1 a residence permit should be granted to persons defined as refugees in the Geneva Convention. Under the same paragraph, persons who are not Convention refugees may also qualify for protection. This category is described as ‘persons in need of protection’ (skyddsbehövande). Persons in need of protection are those who have left their native country and have good reason to fear capital punishment, torture, etc., or who need protection due to an internal or external armed conflict or an environmental disaster in their native country.

No specific implementation measures have been taken on account of the Directive, article 2.d. The Aliens Act does not define who is a “family member” to an asylum seeker. However, in accordance with the Ch. 5 § 3, a residence permit might also be granted if the applicant’s situation comply with any of the following conditions, stating that the foreigner<sup>53</sup>

- has to be married or live together with someone who has residence in Sweden or has been granted a residence permit in Sweden,
- has to be a foreign child (under the age of 18) and unmarried and either has been a child at home to someone who is a resident or has been granted residence permit for residence,
- has to be a foreign child (under the age of 18) and unmarried and who has been or is going to be adopted by someone who, at the time of the adoption, is and still is resident in Sweden or who has been granted a residence permit,
- has to be a close relative on some other ground to someone who is a resident or has been granted residence permit, if the person has been part of the household and there is a particular dependency relation between the relatives,
- has to be a husband, spouse or a cohabitant to someone who is a resident or has been granted residence permit, if the relationship is considered to be serious,
- has the intention to marry or cohabit with someone who is a resident or has been granted a residence permit, if the relationship is considered to be serious,
- has to be together with a child who has residence in Sweden,
- is a relative to a foreigner that is a refugee or otherwise in need of protection,
- in any other way must have a particular connection to Sweden.<sup>54</sup>

The Aliens Act defines relatives to persons who have been granted residence permit or a refugee status. Hence, the relatives position is basically dependent on the outcome of the asylum seekers application for asylum.

According to the Act on the reception of asylum seekers § 3, the Migration Board should offer asylum seekers accommodation in an accommodation centre, which in practice will be in an apartment provided by the Migration Board. Following the same paragraph, all asylum seekers have to be registered at an accommodation centre (in practice this means that the foreigner will be registered at the application centre/office where the asylum seekers meet the

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<sup>53</sup> The list is not complete, since it also embraces other categories not covered by the present study.

<sup>54</sup> The reason is subsidiary compared with the previous grounds, and further, «particular reasons» should be present. See Government’s proposition 2004/05:170 Ny instans- och processordning i utlännings- och medborgarskapsärenden, pp. 183 f. and Government’s proposition 1996/97:25 Svensk migrationspolitik i globalt perspektiv, pp. 113 f.

Migration Board's staff), even if they arrange their own accommodation (see below Q.24). Further, in accordance with the Ordinance on the reception of asylum seekers § 2c, the Migration Board, when it offers accommodation, should as much as possible keep families together if the foreigners do not oppose.

Q.24A. Asylum seekers can choose to live with friends or relatives, otherwise they will be provided with a temporary housing organised by the Migration Board, either in an ordinary residential area or – which is an exception – temporarily in application housing or in other accommodations (compare the Directive, article 14.1). Approximately more than 50 percent of the asylum seekers choose the first alternative.<sup>55</sup> The Migration Board is obliged to offer accommodation in an accommodation centre for those who do not arrange their own living (see the Act on the reception of asylum seekers § 14).

Asylum seekers who choose to live on their own may, on certain conditions, be granted a monthly housing allowance (see the Act on the reception of asylum seekers § 16). The conditions, which are cumulative, are that the applicant must be granted a work permit or exempted from such a requirement, has been offered a job of at least three months duration and, as a prerequisite to take that job, has to move to a place where the Migration Board is unable to offer housing. The allowance is, as previously stated in my answer to Q.12A, 37,8 Euro (SEK 350) per month for single asylum seekers and 91,7 Euro (SEK 850) for families.

Q.24B. The number of individuals staying at the Migration Board's lodging in November 2005 was 18,800. The number was almost half of the total number of asylum cases dealt with by the Board at that time (almost 33,000 applicants).<sup>56</sup>

Q.24C. Generally the number of places available for the reception of asylum seekers is considered to be sufficient, and this judgment is also the opinion of the UNHCR representatives in Sweden. Further, following the decrease in the number of asylum seekers in 2005, around 3,500 places for asylum seekers were taken away.<sup>57</sup>

Q.24D. As stated above the number of asylum seekers has decreased in 2005, and so far this trend has continued in 2006. Hence, the question of special measures in urgent cases is not relevant concerning Sweden. Historically the number of places has fluctuated and the organisation for the reception of asylum seekers is rather flexible on this matter.

Q.25A. There are no different categories of open accommodation centres, and there are not any rules saying that asylum seekers must stay a certain period in an accommodation centre before they get access to a private house or apartment.

Q.25B. There is no general regulation about the internal functioning of accommodation centres. However, according to 4 § of the Act on the reception of asylum seekers, the Migration Board can adopt rules concerning the applicants' participation in the maintenance of these centres. The Act also contains other rules as regards rights and duties of asylum seekers, for example rules about occupation and economic assistance, rules which are further elaborated in the governmental ordinance.

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<sup>55</sup> Official report SOU 2003:89 EG-rätten och mottagandet av asylsökande, p. 141.

<sup>56</sup> Migrationsverket (the Migration Board), Årsredovisning 2005 (Annual report), p. 16.

<sup>57</sup> Migrationsverket (the Migration Board), Årsredovisning 2005 (Annual report), p. 16.

The rules may differ to some extent depending on whether the asylum seeker lives in an accommodation centre or in a private house or apartment. Further, in principle there is no certain time limit for accommodation in an accommodation centre beyond the time limits for dealing with applications for asylum.

Q.25C. In accordance with the Act on the reception of asylum seekers § 10, an asylum seeker who without a valid reason refuses to take part in the daily work at the centre may get his or her daily allowance reduced and ultimately suspended (compare the Directive, article 16.3). However, this is not possible for persons under the age of 18. Further, from the preparatory works follow that this sanction should be reserved for exceptional cases, i.e. when the person in question systematically and regularly refuses to take part in the common activities.<sup>58</sup> The decision must be taken by the Migration Board. Appeal against the decision can be brought before the district Administrative Court (see of the Act on the reception of asylum seekers § 22). (See also Q.21A.)

Q.25D. There are no formal rules which give asylum seekers a right to take part in the management of accommodation centres. (Compare the Directive, article 14.6 which is an optional provision.)

Q.25E. See the answer on Q.25C.

Q.26A. In accordance with the Ordinance on the reception of asylum seekers § 2a, the Migration Board shall inform the applicants about organisations or groups of individuals who can give legal aid on matters concerning reception conditions, access to health care and medical treatment. Asylum seekers are also guaranteed legal assistance in accordance with the rules laid down in the Legal aid Act (1996:1619). (Compare the Directive, article 14.2; see also Q11.)

The UNHCR representatives have not experienced any obstacles regarding communication, although in practice you must of course agree with the person and the Migration Board about the time of meetings etc. The UNHCR also think that NGOs have good possibilities to get in contact with the asylum seekers although also here the practical aspects must be considered.

Q.26B. There are no explicit regulations that give legal advisors, NGOs and UNHCR access to accommodation centres (compare the Directive, article 14.7). On the other hand, there are no rules that prevent access, and referring to Q.26A above, in practice this activity seems to be working well.

Q.26C. Practically, it might be possible to restrict access of legal advisers, but such a situation is extreme and for instance the UNHCR cannot give any example of such events in Sweden. Further, there are no certain regulations concerning restrictions on the matter.

Q.27A. There are no rules requiring medical screening for asylum seekers on public health grounds, but asylum seekers are offered a voluntary medical examination. Considering HIV-test the matter has been discussed, but there are no regulations on this issue. Probably a HIV-test could be offered on a voluntary basis as part of the free health screening, but this conclusion has not been confirmed.

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<sup>58</sup> Government's proposition 1993/94:94 Mottagande av asylsökande m.m., p. 49.

Q.27B. Every County council district must, in accordance with the Health and Medical Service Act § 4, offer emergency care and essential treatment of illness to all persons who stay in the district, even if they are not resident. Regarding asylum seekers that obligation means a duty to provide acute health care services.<sup>59</sup> (Compare the Directive, article 15.) Medical treatment that is not acute, or if the risk to await treatment is considered to be moderate, should not be reimbursed by the State. A corresponding right to emergency dental care follows from the Act on dental care § 6.

In principle, asylum seekers have no right to more comprehensive health care benefits than what follows from these regulations, but there is also an agreement between the Government and the Swedish Association of Local Authorities and Regions (Svenska Kommunförbundet och Landstingsförbundet i samverkan). The agreement regulates among others State compensation for health care beyond acute treatment to asylum seekers and, further, supplementary regulation on the matter is being prepared by the Government. (See also Q.3.)

Children up to the age of 18 years are fully entitled to health, medical (mental care included) and dental care on the same conditions as other children in Sweden. These entitlements embrace children who keep away or are being kept away, and the County councils' cost should be reimbursed by the State.

However, especially concerning children's health care the NGO Save the Children Sweden is sceptical of the practice. The health and medical care could sometimes be insufficient, since the parents do not have the right to full health care services, they will not bring the children to health centres etc.; the parents do not fully realise their children's entitlements in these respects. Further, there are certain problems regarding health care and foreigners that are keeping away commented on by the NGO organisation *Medecins sans Frontiers* (Läkare utan gränser).<sup>60</sup> For instance the absence of State reimbursement for adult asylum seekers' health care means that they could be turned away and otherwise there will be trouble in the contact with the health care.

Q.27C. Asylum seekers will be sent to a County council's care centre for health screening, but, as stated before, the screening is voluntary (compare the Directive, article 9). But there are examples from for instance the application centres – that first meet the asylum seeker – that medical care is available there (at the former transit units). The UNHCR representatives refer to an example where a former Migration Board's transit unit offered medical care by a visiting nurse coming to the centre regularly for two hours per week.

Q.28A–C. There are no rules laying down a fixed period during which asylum seekers do not have access to the labour market. However, in accordance with the Aliens Ordinance ch. 5 § 4, if a final decision is judged *not* to be reached within four months from the point of time the application for asylum or international protection (referring to the Aliens Act ch. 4 §§ 1 or 2) was made, the foreigner is explicitly excepted from the demand for a work permit. Hence, the foreigner should have access to the labour market at least after four months after the application for asylum etc. was handed in. The provision in ch. 5 § 4 fulfils the requirements

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<sup>59</sup> Compare the Ordinance (1996:1357) on State compensation for health and medical treatment to asylum seekers. Further see the National Board of Health and Welfare (Socialstyrelsen), Socialstyrelsens allmänna råd 1995:4 Hälso- och sjukvård för asylsökande och flyktingar. See also Government's proposition 1993/94:94 Mottagande av asylsökande m.m., p. 54.

<sup>60</sup> *Medecins sans Frontiers* (Läkare utan gränser), *Gömda i Sverige. Utestängda från hälso- och sjukvård. Resultat från en studie av Läkare utan gränser*. Stockholm 2005.

in article 11.1 of the Directive, and furthermore the four months period is more favourable than the one year period stipulated in article 11.2.

In accordance with the Ordinance ch. 4 § 9 the work permit should not be granted for a period beyond the time when the foreigner no longer can stay legally in Sweden. For instance, if the application for residence permit is rejected, the foreigner's work permit no longer is valid.

Further, in line with the restriction that the work permit should apply as long as the foreigner legally is staying in the country, a procedure with suspensive effect should not mean that the work permit no longer should be valid.

Q.28D. Swedish legislation lacks rules that give priority to Swedish citizens, EEA-nationals and legally resident third-country nationals before asylum seekers as regards access to the labour market.

Q.28E. There is no explicit rules that explicitly give asylum seekers access to vocational training (compare the Directive, article 12).<sup>61</sup> On the other hand there are no restrictions to the asylum seeker's right to vocational training in connection with an employment contract (compare the Directive, article 12 indent 2). (Further, it could be noted that the Swedish Government has not considered article 12.2 as mandatory.)

Q.28F. Current rules that govern access to the labour market for asylum seekers have basically not been adopted to transpose the directive, but are of an earlier date even if clarifications have been made. (In the former Aliens Ordinance 1989:547 the "four months rule" was found in ch. 4 § 3a [Ordinance 2000:391].)

Q.29. Asylum seekers are entitled to a daily allowance if they lack sufficient resources to provide for themselves (see the Act on the reception of asylum seekers § 17; compare the Directive, article 13.3 and 4). For applicants who live in an accommodation centre, the allowance will be reduced if they have free meals (see § 6 of the Ordinance on the reception of asylum seekers). (See also Q.15 and Q.21A.)

An applicant engaged in gainful employment or who have other resources and who stays in an accommodation centre, shall pay a reasonable sum to the Migration Board for food and housing (Act on the reception of asylum seekers § 13).

There are no national rules that make it possible to reclaim money if, on some future occasion, it appears that an asylum seeker has an income or personal resources (compare the Directive, article 13.4). However, in cases of acts of deception or other criminal acts and if the State has suffered damages, the State has the possibility to start civil proceedings.

## **7. SPECIAL NEEDS OF PARTICULAR CATEGORIES OF ASYLUM SEEKERS**

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<sup>61</sup> For an introduction of the foreigner on the labour market efforts should be made in accordance with the Agreement between different authorities on the development of the introduction of refugees and other immigrants (see Q.10), but a precondition is that a residence permit has been granted. However, already before that point of time the asylum seeker's educational background and working life experience should be mapped, in order to facilitate a coming introduction to the labour market *if* a residence permit should be granted.

Q.30A. Rules that take into account the specific situations of vulnerable persons such as minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children, persons who have been tortured, raped or victims of serious physical or psychological violence are to be found in different statutes (compare the Directive, article 17.1). In other words, there is no single piece of legislation transposing this part of the Directive.

The most important regulations aiming at the groups mentioned above can be found in the Social Service Act, the Health and medical services Act and several Governmental Ordinances, such as the Ordinance on state compensation for asylum seekers.

Concerning the listing of vulnerable persons many of the entitlements discussed are based on regulations having a general character or more concrete State authorities' guidelines. Regarding the judgement of the implementation in this context of entitlements founded on the Directive, there is also judicial practice from the ECJ to consider.<sup>62</sup> The entitlements based on the Health and medical services Act for instance could be regarded as too vaguely expressed for the individual concerned to understand etc. However, my impression is that the practical outcome when these many times general regulations apply – together with guidelines from State authorities – is in line with the Directive.

Q.30B. According to informants in accommodation centres there is a wide range of supporting measures, for instance apartments equipped for special purposes, for disabled people, and more. In general the informants from the Migration Board's accommodation centres express that they can offer relevant measures such as apartments especially equipped for disabled people and more.

However, in practice there are often problems to focus on, especially regarding asylum seekers suffering from psychological traumas. Although help is available a person could be judged to be healthy enough to be placed in an accommodation centre, in an apartment etc., but in fact he or she has problems that the staff thinks should be treated.

Q.30C. The demand for providing for special needs in certain matters is legally defined in different Acts, for instance the need for social assistance in accordance with the Social services Act should be laid down in accordance with the Act. The applicant must meet the requirements stipulated in each Act respectively. (Compare the Directive, article 17.2.)

In this connection, the Act on the reception of asylum seekers § 18 should be mentioned. According to this paragraph, a particular allowance can be granted to asylum seekers with special needs, and it is paid in addition to the daily allowance earlier mentioned. The special allowance is intended to cover expenses for, by example, glasses, handicap equipment and baby equipment (see also the Ordinance on the reception of asylum seekers § 7 and Q.12A).

Q.30D. The necessary medical and other assistance to persons with special needs should be provided in accordance with the applicable Act, for instance in accordance with the Health and medical services Act or the Social services Act. (Compare the Directive, article 15.2.)

Q.31A. The full age legally defined in Sweden is 18 years and asylum seekers not older than 18 years are considered to be minors or children. In practice it is often a problem to fix a

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<sup>62</sup> See for instance Case 29/84 ECR 1985 p. I-1681 concerning the transposition of EC directives into national law in Member States.

person's age, especially around the ages of 16–20 years. The declared age could sometimes be questioned and since most of the arriving asylum seekers cannot give proof of their identity, there could be great difficulties when taking decisions on the asylum seeker's status, entitlements and the future dealing with the case. (The examples have been discussed with the UNHCR representatives.)

Q.31B. Basically the school system is regulated in the School Act, which in principal regulates all children's right to schooling. (Compare the Directive, article 10.1.) Regarding asylum seeking children's right to schooling, the children should be assigned a place in a public school. This follows from the Ordinance on education, pre-school activity and school childcare for asylum seekers. The Ordinance, which refers to the Act on the reception of asylum seekers, also embraces pre-school activities as well as the nine-year compulsory school, the upper secondary school education and more in public schools.<sup>63</sup>

Asylum seeking children are not embraced by the general compulsory school attendance (skolplikt), but the local authorities are in charge of offering the children a place in the public schools on the same terms as other children staying in the municipality.

Young people, who have begun an education on the upper secondary level (continuation of the nine-year compulsory school) before reaching the age of 18, should have the right to education on the upper secondary level. Further, they may participate in organised activities that are arranged for other asylum seekers.

The right to schooling will not cease if the child's application for residence permit is rejected and a decision on expulsion has been taken. In such a situation the child is still entitled to schooling until the decision is executed (the Ordinance on education, pre-school activity and school childcare for asylum seekers § 9). However, if the child is kept away so the decision cannot be executed he or she will not have the right to schooling (§ 9; amendment through SFS 2004:700). (See also comment on the matter in Q.21A.)

Further, the access to schooling is financially secured through State reimbursement for educational costs for children to asylum seekers in accordance with the Ordinance on state compensation for asylum seekers. Financial contribution could also be granted so called free-schools if the school is entitled to public subsidies, which means that the school must fulfill the requirements raised through the public curriculum for schools.

However, the NGO Save the Children Sweden has stated that especially children with special needs will not always be treated in a correct way. Even if the local authorities are compensated for children's schooling, the children with special needs will cost more money than on average, and for this reason Save the Children Sweden claims that there has been situations when the local authorities have been reluctant.<sup>64</sup>

Q.31C. In accordance with the Ordinance on education, pre-school activity and school childcare for asylum seekers § 4, the assignment to a place in a public school should be made as soon as possible, considering the child's personal circumstances, but not later than one

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<sup>63</sup> That is special schools on the corresponding level and the Lapp school.

<sup>64</sup> However, in accordance with Ordinance on state compensation for asylum seekers the local authorities should be reimbursed for extraordinary costs for children with special needs. See also the Migration Board's Aliens handbook (ch. 33). (Further, see also Q31F.)

month after the arrival to Sweden. (Compare the Directive, article 10.2.) In principle only personal circumstances such as, for instance, illness should be reason for delays.

Q.31D. In the Ordinance on education, pre-school activity and school childcare for asylum seekers § 5, there is a regulation stipulating that the schooling should be conducted on the same terms as for other children in Sweden and the asylum seeking child's prerequisites and special needs should be considered.

For children speaking another language than Swedish or if one or two of the child's parents are speaking another language in daily life with the child, the child is entitled to education in that language in accordance with the School Act ch. 2 § 9 (compare the Directive, article 10.2).

Q.31E. In general minors are accommodated with their parents or with the person responsible for them in accordance with the Ordinance on the reception of asylum seekers 2c. (Compare the Directive, article 14.3.)

Q.31F. Concerning minors with special needs appropriate activities and measures should be provided for. The local authorities are compensated for certain cost for the care of children under the age of 18, in accordance with the Ordinance on state compensation for asylum seekers § 7. A precondition is that the child is embraced by the Act on the reception of asylum seekers § 1. Subsidies are paid for caretaking in accordance with the Social services Act or the Act (1990:52) with particular regulations concerning the care of minors.

Asylum seeking children suffering from post-traumatic difficulties should be treated, but, as stated above, for primary medical reasons this treatment often will not start before a residence permit has been granted. However, there is a great need for child psychiatry care and psychiatrists are often referred to when the application for residence permit is tried.<sup>65</sup> (See also Q.31F above.)

There are also NGO activities on these matters, for instance the Swedish Red Cross runs six rehabilitation centres, and these centres are in some cases engaged and paid by a County Council for the fulfilling of that function.

Efforts have been made concerning the children concerned, but according to the UNHCR representatives there is reason to follow-up the development in this matter.

Further, reimbursements to the County councils in charge of the care etc. should be covered in accordance with the Ordinance on state compensation for health and medical treatment for asylum seekers.

Even if the child's application for asylum is rejected, the reimbursement for the caretaking should continue to be paid until the child is leaving Sweden (the Ordinance on State compensation for asylum seekers § 7).

In 2003 the Government appointed a certain Council for migration and asylum policy concerning children. The Council should be a forum for consultation and exchange of information. Members of the Council are persons with special knowledge in these matters, for

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<sup>65</sup> The National Board of Health and Welfare, Medicinskt omhändertagande av asylsökande barn i hälso- och sjukvården.

instance specialists in children's diseases, doctors, the Child ombudsman, representatives from Save the children Sweden, the Red Cross, psychologists, the Migration Board and more. During 2005 the Council had three meetings discussing the reception of unaccompanied children, childrens' reasons for seeking asylum and the meaning of what is the best for a child and more.<sup>66</sup>

Q.31G. As commented on above in Q.3, the local authority should have the responsibility for the care of unaccompanied children referring to the Social services Act and the explicitly expressed duty for the local authority to provide for persons staying in the municipality.<sup>67</sup>

The representation of unaccompanied minors is organised through the appointment of a guardian ("god man"), which shall see to the child's interest. The appointment is made referring to the Act (2005:429) on guardian for unaccompanied minors, which came into force in July 1, 2005 (compare the Directive, article 19.1).<sup>68</sup> The guardian should be appointed by the local authority when the Migration Board has made a notification on the matter in accordance with the Act on guardian for unaccompanied minors (§ 3).

A public assistant and normally, the guardian shall accompany the child to the meetings with the Migration Board.

The UNHCR and NGOs have made considerations on this and how the system with a public assistance is realised in practice. There might be problems considering the distribution of responsibility between the Board, the local authorities and the guardian, since there are many people involved. Further, the guardians need a special training and there are examples on such training performed by NGOs (see also Q.41C on the duty to professional secrecy).

Q.31H. Concerning unaccompanied minors arriving in Sweden the local authorities may arrange the children's living, and the Migration Board should assign a local authority normally having an agreement with the Board to arrange the child's living (amendment of Act on the reception of asylum seekers §§ 2 and 3, made through SFS 2006:177 which came into force at July 1, 2006).

Children up to the age of 16 should be placed in group living ("grupphem") or other particular accommodations for children, including for instance a placing in family-home or with relatives (compare the Directive, article 19.2). The local Social welfare board is responsible for the offering of a suitable living for the child (the Social welfare board's duties follow from the Social services Act, ch. 6 § 1).<sup>69</sup>

Q.31I. In the Ordinance on the reception on asylum seekers there is a regulation stipulating an obligation for the Migration Board to try as soon as possible to trace the family members of the unaccompanied children (§ 2d; which came into force at July 1, 2006). Further, in the Secrecy Act (1980:100) there are regulations about the confidentiality of information in these cases. Practically, the tracing of unaccompanied minors is made in different ways. Beyond the Migration Board also Swedish embassies in the country of origin are engaged as well as NGOs. For instance the Swedish Red Cross organisation can investigate a minor's

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<sup>66</sup> Government's communication, Regeringens skrivelse 2005/06:18 Migration och asylpolitik, p. 26.

<sup>67</sup> Compare the Government's proposition 2005/06:46 Mottagande av ensamkommande barn.

<sup>68</sup> Government's proposition 2004/05:136 Stärkt skydd för ensamkommande barn. See also Official report SOU 2003:51 God man för ensamkommande flyktingbarn.

<sup>69</sup> See the Government's proposition 2005/06:46 Mottagande av ensamkommande barn.

background and the possibility of finding relatives to the minor (compare the Directive, article 19.3).

A practical problem when tracing a minor's relatives etc., which the Swedish UNHCR representatives called attention to, is that the dealing with this kind of matters often takes a long time. Sometimes there will even be a decision to expel the minor during the search for relatives, but a precondition for the execution is that there is a receiving person in the country of origin. The general problem with long time dealing with asylum applications also has an impact on these kinds of matters.

## **8. EXCEPTIONAL MODALITIES OF RECEPTION CONDITIONS**

Q.32A. Foreigners with special needs are unaccompanied children, elderly, disabled people, pregnant women, single parents with children, persons who have been exposed to torture, rape or other forms of outrageous psychological, physical or sexual violence (the Directive Article 17).

In the Act on the reception of asylum seekers §§ 1, 2 and 3, there are certain regulations concerning children up to 18 years of age, who at the arrival in Sweden are separated from their parents or from any other person close to the children. (Amendments through SFS 2006:177.) Every year there is around two hundred unaccompanied children in this category.

Unaccompanied children should be taken care of in special accommodations. Usually these children are accommodated in group housing provided by the Migration Board or stay with relatives in Sweden.<sup>70</sup> From July 1, 2006, the local authorities in the municipalities will be responsible for these children seeking asylum, and the group housing activity etc. will be transferred to the local authorities.<sup>71</sup>

Asylum seeking children are embraced by the regulation in the Health and medical treatment Act and the duty for County councils to provide treatment (§ 4). Concerning adults there are certain restrictions. However, asylum seeking children not older than 18 years are entitled to the same health, medical and dental treatment as other children living in Sweden.<sup>72</sup>

However, when judging the relevant treatment, it must be taken into account that it is not certain that the child will get a residence permit, and thus the consequences this could have for the treatment must be considered. For instance, in accordance with the general instructions from the National Board of Health and Welfare, a long and not acute treatment period should not start if an interruption could have negative consequences, should the asylum seeker not be granted a residence permit.<sup>73</sup>

Asylum seeking children suffering from post-traumatic difficulties should be treated, but, as stated above, in the main this treatment seriously will not start before a residence permit has

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<sup>70</sup> Statistics Sweden (SCB), Reception Systems, their Capacities and the Social Situation of Asylum Applicants within the Reception System in the EU Member States (Small Scale Study I), SCB, Stockholm 2005, p. 15.

<sup>71</sup> Government's proposition 2005/06:46 Mottagande av ensamkommande barn.

<sup>72</sup> See also the National Board of Health and Welfare, Allmänna råd (General instructions) 1995:4 Hälso- och sjukvård för asylsökande och flyktingar. See also the National Board of Health and Welfare, Medicinskt omhändertagande av asylsökande barn i hälso- och sjukvården.

<sup>73</sup> The National Board of Health and Welfare, Medicinskt omhändertagande av asylsökande barn i hälso- och sjukvården.

been granted. However, there is a great need for child psychiatry care and psychiatrists are often referred to when the application for residence permit is tried.<sup>74</sup> (See also Q.31F above.)

During the last few years many cases of children showing serious symptoms of resignation have been observed, and there has been a debate regarding the reason for the occurrence of such physical conditions. In many cases children have been more or less force-fed, since they have been in an apathetic mood. One reason for the situation could be the nervous tensions families and children experience waiting for a final decision concerning their application for asylum. However, experts disagree concerning the reasons behind and there is a difference between, for instance, the NGOs and the National Board's of Health and Welfare standpoints.

Q.32B. There is no information on non availability of reception conditions in certain areas, but in general the best reception facilities in a wide range are supposed to be found in big places or cities (hospitals, specialists on different matters, doctors, psychiatry resources etc.).

Q.32C. The fluctuation in the number of asylum seekers over the years makes it difficult to foresee the need for lodging in accommodation centres etc., but generally the reception organisation is flexible on this matter (see also Q.32E).

Q.32D. If a foreigner is confined to a border post in connection with an arrival or a departure from Sweden, he or she must not be detained for investigation longer than necessary and not for more than six hours (the Aliens Act ch. 9 § 11). However, if the foreigner declares that his or her intention is to apply for asylum the person will immediately be transferred to a Migration Board application unit.

Q.32E. At for instance urgent situation in case of a sudden high number of applicants reception facilities should be flexible. According to an internal instruction an accommodation centre should be able to increase its capacity with up to 200 places during a two months period.<sup>75</sup>

However, extreme situations could occur. An example is when the crisis in former Yugoslavia developed, there were thousands of Bosnians arriving with ferries from the Continent and improvised reception conditions must be set up.<sup>76</sup>

Q.33A. A foreigner that is at least 18 years old can be *detained* referring to the following conditions stipulated in the Aliens Act ch. 10 § 1:

- if the foreigner's identity is not clear at the arrival or if he or she cannot make the identity probable when applying for a residence permit,
- if it is necessary for the investigation concerning the foreigner's identity or it is probable that the foreigner will be turned away referring to certain circumstances<sup>77</sup>, or

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<sup>74</sup> The National Board of Health and Welfare, Medicinskt omhändertagande av asylsökande barn i hälso- och sjukvården.

<sup>75</sup> See for instance Migrationsverket (the Migration Board), Principer för kapacitetsplanering – ABO. (Administrative instruction, October 13, 2004.)

<sup>76</sup> However, today such a situation would be dealt with in line with the Directive on temporary protection: Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof. *Official Journal L 212, 07/08/2001 P. 0012 – 0023.*

- If there is a decision to expel the foreigner.<sup>78</sup>

A general precondition is – concerning the two latter reasons – that the foreigner’s personal circumstances or other circumstances give reason to assume that the foreigner will keep away. Hence, article 18.1 of the Directive 2005/85 EC which specifies that « Members states shall not hold a person in detention for the sole reason that he/she is an applicant for asylum » is respected.

Concerning children there are specific similar reasons presented in the Aliens Act ch. 10 § 2. Children cannot be subject to detention only if the reason for the measure taken is connected with expulsion. Further, beyond that a child should not be separated from his or her guardians if there are not particular reasons for the measure (§ 3).

Q.33B. The possibility to put a foreigner under surveillance, including a requirement on daily reporting to the police or the Migration Board, in practice also could be a restriction on the foreigner’s possibilities to leave a place.<sup>79</sup> (See below Q.33E.)

Q.33C. In accordance with the Aliens Act ch. 10 §§ 6–8 it is possible – instead of keeping a foreigner in detention – to put him or her under the authorities’ charge (uppsikt). This means that the foreigner is obliged to report regularly to the local police authority or the Migration Board (§ 8).

Q.33D. The competent authority to take the decision on detention of a foreigner is the authority that is dealing with the case (the Aliens Act ch. 10 § 12; see also § 14 concerning the Migration Board). Concerning asylum seekers it is the Migration Board or the Migration Court dealing with the matter that is the competent authority.

However, if there is no time for this in urgent situations the police authority could take a decision on detaining or putting a foreigner under the authority’s charge (ch. 10 § 17). However, the decision should be reported to the competent authority which shall confirm the decision.

In certain matters, when a case has been transmitted to the Government, it is the Government’s minister in charge that should take a decision on detention etc. (§ 15). In security matters it is the Supreme migration court that is the competent authority for dealing with the matter until the competent Ministry takes over (§ 16).

The Migration Board and not the police is the authority in charge of the execution of a decision on detention. Only on the request from the Board or a Migration Court, the police authority should give the assistance needed in order to execute a decision (§§ 18 and 19).

Q.33E. In accordance with the Aliens Act ch. 10 § 4 a foreigner might not be kept in custody for the purpose of an investigation for more than 48 hours. Otherwise a foreigner who is at least 18 years old, might not be kept in custody for more than two weeks, if not particular

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<sup>77</sup> See the Aliens Act ch. 8 §§ 1, 2 or 7.

<sup>78</sup> Further, beside the regulation in the Aliens Act a foreigner can be expelled, taken into custody or under surveillance referring to state security, criminal activities including terrorism in accordance with the Act (1991:572) on particular control of foreigners ( Lag om särskild utlänningskontroll).

<sup>79</sup> See also the Act (1991:572) on particular control of foreigners, and concerning surveillance especially § 8, amended through SFS 2005:720.

reasons are at hand. If the foreigner is a child, it must not be kept in custody for more than 72 hours or, if there are particular reasons, for another 72 hours (§ 5). (See also Q.32D and Q.33I.)

Q.33F. The most far-reaching form of detention is to put the foreigner in custody or even in prison, although such a measure should be considered as extraordinary. Further, the Migration Board should take the decision to keep a foreigner detained in custody or a prison for security reasons or other particular circumstances (the Aliens Act ch. 10 § 20).

Q.33G. The UNHCR and NGOs have access to places of detention (compare the Aliens Act ch. 11 § 4). A visit might be supervised for security reasons. However, the UNHCR representatives report no difficulties to get into detention places. This current state of affairs is confirmed by the NGOs in Sweden, and for instance Amnesty in Sweden reports that such visits are made regularly.

Q.33H. A decision on detention should be appealed against at a Migration Court in accordance with the Aliens Act ch. 14 § 9. If the foreigner should be held in custody, the appeal should be made in accordance with § 10. Further, in accordance with ch. 16 § 4 an appeal concerning expulsion or detention should be dealt with in a speedy manner (compare Directive 2005/85/EC, article 18<sup>80</sup>).

Q.33I. In principle the regulations concerning reception conditions should apply also when the foreigner is in detention. However, the assistance should be restricted considering that the foreigner is provided with food and accommodation. Further, the entitlements regarding health care should not be restricted because of detention (see Q.33E). Concerning visits there could be restrictions, for instance for security reasons (see Q.33G).

Q.33J. Concerning the main differences between normal reception conditions and the exceptional modalities in case of detention (see Q.33G and Q.34H).

Q.33K. In practice such considerations are made. Informants have pointed out that there is often no reason to put for instance a disabled person in detention since he or she is prevented from mobility due to the handicap. Further, a person suffering from for instance mental illness could be transferred to a clinic for psychiatric care, if that is considered necessary.

Concerning the transfer of a person for psychiatric care informants have pointed out that this possibility is sometimes abused. For instance, a person that is in custody could have a doctor's stated opinion saying that he or she is in urgent need for psychiatric care. Hence, examples have been presented by the Migration Board that the person has been taken out of custody and placed in a place for the treatment, where there has been no watch and then the person has deviated and gone into a hiding-place.

Q.33L. Children and even unaccompanied children could be detained but only in connection with decisions on expulsion. However, in practice the first step should always be to keep children under surveillance. More restricted forms for detention should be practiced only for very limited periods (compare the 72 hours rule mentioned above; Q.33E).

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<sup>80</sup> Council Directive 2005/85/EC on minimum standards on procedures in Member States for granting and withdrawing refugee status. *Official Journal L326 13/12/2005 P. 13–34.*

Q.33M. Considering the very limited period for keeping a child in detention, the educational activities are rather reduced, even if there formally is no restriction (compare the Directive, article 10). Practically, detention could occur in very particular situations, for instance just before an expulsion will be executed.

Q.33N. The number of foreigners kept in detention is low. At the end of 2005 the number of detention places was 125 and the number of foreigners in detention was 72 (to be compared with 202 persons on December 31, 2004).<sup>81</sup> However, in general most of these persons were not asylum seekers. For instance, they were in detention for other reasons such as criminality and waiting for the execution of an expulsion decision or likely.

The total number of asylum seeker at the end of 2005 was around 9,000, although the figure is not exact (see comments in footnote).<sup>82</sup>

## **9. ORGANISATION OF THE SYSTEM OF RECEPTION CONDITIONS**

Q.34. The Swedish system for reception of asylum seekers is centralised. There is a central State authority – the Swedish Migration Board – in charge of reception conditions. Within the Board there is a certain Head of unit in charge of asylum and reception matters. The Migration Board takes decisions on the budget and policy within the framework of regulations taken by the Riksdag and the Government.

However, concerning the practical dealing with reception conditions the Migration Board's administrative officials take decision on, for instance, the asylum seeker's living and allowances in accordance with the Act on the reception of asylum seekers.

Q.35. The accommodation (or reception) centres are public and financed by the State. Previously, for instance, the Red Cross organisation carried out reception facilities.

Q.36. Concerning the number of accommodation centres in Sweden there are no exact figures, since in practice the accommodation is in apartments and most asylum seekers arrange there own living. However, a figure on the number of what could be called accommodation centres is that there were 38 such centres.<sup>83</sup>

Almost half of the asylum seekers is arranging their own living, and at the end of 2005 there were 38,000 persons registered in the asylum procedure, which means that around half of the number should be accommodated by the Migration Board (the figure should not be mixed up with the number of foreigners seeking asylum in 2005; see Q.40A).

Q.37. There is no legislation in order to spread the asylum seekers all over the territory of Sweden. However, indirectly such an ambition follows from the intention that the Board should be represented all over Sweden.<sup>84</sup> At the same time the Board should consider the aim

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<sup>81</sup> Migrationsverket (the Migration Board), Årsredovisning 2005 (Annual report), p. 17.

<sup>82</sup> The figure is so called «open asylum cases» that is the number of cases in the asylum procedure, however cases in the appeal procedure are not included. See Migrationsverket (the Migration Board), Årsredovisning 2005 (Annual report), p. 11.

<sup>83</sup> The figure is from a draft report from the Small scale study I: «Reception systems, their capacities and the social situation of asylum applicants within the reception system in the EU Member States», (May 2006).

<sup>84</sup> See Migrationsverket (the Migration Board), Principer för kapacitetsplanering – ABO. (Administrative instruction, October 13, 2004.)

to run a flexible activity with a good quality and in positive cooperation with the local authorities.

This means that for instance the access to experts on different fields (health care professionals, jurists, trained social workers, administrators for the examination of the application etc.). Concerning the quality of the reception conditions also the access to schooling for children, police, public transport, public service should be considered. Further, a positive attitude from the local authority facilitates the arranging of good reception conditions.

Q.38. There is no central body representing all the actors involved in the reception of asylum seekers.<sup>85</sup>

Q.39A. The Swedish Migration Board is the authority in charge of the dealing with reception conditions concerning these matters; compare the Directive, article 23). In the Government's Office the reception conditions and migration matters belong under the Ministry of Foreign Affairs and the minister in charge is the Migration minister. Further, the local authorities in municipalities are in charge of the care taking concerning unaccompanied children.

Concerning health care, the Ministry of Health and Social Affairs and the County councils are in charge, and the State authority in charge is the National Board of Health and Welfare. Concerning schooling the Board of Education is in charge under the Ministry of Education, Research and Culture, and on the local level the schools are under the local authorities in the municipalities.

Q.39B. Concerning the quality standards for housing service there is no central list stipulating a certain standard, but according to officials at the Migration Board such a list probably will be worked out when the Migration Board's Aliens handbook is made up to date.<sup>86</sup>

At the same time informants at reception centres report that certain guidelines apply. For instance, in apartments there should be chairs, tables, beds and another guideline is that two persons should share a room. In practice the Board's staff also distribute a "package" for adults including bedclothes, kitchen equipment etc. and a corresponding "package" is available for children.

A critical remark concerning reception facilities have been made by NGOs. Sometimes there is lack of practical facilities such as saucepans and other kitchen equipment and more. Local NGO representatives have in such cases made efforts to procure the utensils that have been missing.

Q.39C. The Migration Board – as well as other State authorities – presents an annual report concerning its activities regarding migration and asylum before the Government.<sup>87</sup> Annually the Government presents a report – or formally a written communication – to the Riksdag concerning migration and asylum.<sup>88</sup>

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<sup>85</sup> A central organisation in Sweden for NGOs that could be mentioned is FOSIF (Frivilligorganisationernas samarbetsorgan i flyktning och invandrarfrågor). However, the FOSIF is primarily dealing with matters concerning the asylum procedure and not reception matters.

<sup>86</sup> In accordance with the Migration Board's Aliens handbook (ch. 33.7), the Board has followed the directions for pension and camping establishments concerning the number of lavatories and showers.

<sup>87</sup> See for instance Migrationsverket (the Migration Board), Årsredovisning 2005 (Annual report).

<sup>88</sup> Regeringens skrivelse 2005/06:18 Migration och asylpolitik.

Further, the National Swedish Audit Bureau (Riksrevisionsverket) scrutinizes the State activity in different aspects, especially regarding the effectiveness in the State sector, and also presents reports. In 2002 there was, for instance, a critical report regarding the Migration Board's dealing with asylum seekers.<sup>89</sup> In 2003 the State Audit Institution (Riksrevisionen) was created in Sweden replacing Riksrevisionsverket and the Parliamentary Auditors (Riksdagens revisorer). In 2006 there was a new report that again criticized the cooperation between State authorities and the integration into society of newly arrived immigrants (see above Q.10.)

Q.39D. Concerning the level of reception conditions there are figures presented by the Migration Board in the annual reports. However, for instance the level of the daily allowance granted to asylum seekers, is stipulated by the Government through the Ordinance on the reception of asylum seekers (see Q.12A).

Q.40A. The total number of asylum seekers to Sweden in 2005 was 17,530 persons.<sup>90</sup> (The figure should not be mixed up with the figures concerning how many persons are there registered in the asylum procedure at the Migration Board.)

Q.40B. The total cost for reception conditions in 2005 was 388,573,000 Euro (SEK 3,603,781 000).<sup>91</sup>

Q.40C. The average cost for reception conditions for twenty-four hours to an individual in 2005 was 28,4 Euro (SEK 263).<sup>92</sup> From this amount the cost for an individual for a one year period should be around 10,353 Euro (SEK 96,000) per year.

Q.40D. The costs mentioned are supported by the Migration Board, and the costs for local authorities dealing with asylum seekers paid by the Migration Board are included.<sup>93</sup> For instance, the Board's reimbursement in 2005 to County councils and local authorities was 125,861,029 Euro (SEK 1,167,050,000).<sup>94</sup> In February 2006 the Government decided to contribute additional money, 5,391,181 Euro, for assistance to children on the local authority level.<sup>95</sup>

Q.40E. Concerning the Directive, article 24.2, and the allocations of resources to reception conditions, a conclusion is that the Swedish State fulfils the commitment.

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<sup>89</sup> See for instance Riksrevisionsverket, Hur mottas de asylsökande? - Den organiserade verksamheten för asylsökande inom Migrationsverket, Report RRV 2002:19 (presented in September 2002). The report, which was rather critical, is available on website <http://www.riksrevisionen.se/templates/PublikationDokument.aspx?id=2132&pubid=499&type=Sökresultat>

<sup>90</sup> More detailed statistical figures on asylum seekers to Sweden in 2005 are available at the Migration Board's website [http://www.migrationsverket.se/pdf/Arbetsstatistik/statistik\\_1\\_2005.pdf](http://www.migrationsverket.se/pdf/Arbetsstatistik/statistik_1_2005.pdf)

<sup>91</sup> Migrationsverket (the Migration Board), Årsredovisning 2005 (Annual report), p.16.

<sup>92</sup> Migrationsverket (the Migration Board), Årsredovisning 2005 (Annual report), p.16.

<sup>93</sup> Migrationsverket (the Migration Board), Årsredovisning 2005 (Annual report), p.16.

<sup>94</sup> Migrationsverket (the Migration Board), Årsredovisning 2005 (Annual report), p.16.

<sup>95</sup> The Migration Board's website (pressrelease). See also Migrationsverket, PM 2006-05-04 Utbetalning av ersättning för sociala insatser till asylsökande barn.

Q.41A. The total number of employees in the Migration Board in May 31, 2006, was 2,992 persons. The number working with asylum matters was 1,961 persons, including 947 persons directly involved in the reception of asylum seekers.<sup>96</sup>

Q.41B. All staff in accommodation centres dealing with the reception of asylum seekers shall have a general introduction course. Furthermore, there is an educational programme called the “migration programme” divided into a basic part and two more specialised parts (Step II and III). (On these matters, compare the Directive, article 14.5, 19.4.) The specialised parts are given in different directions such as “asylum and reception” depending on the individual’s tasks.

In Step II and III there are modules on different subjects such as human rights, migration policy, cultural patterns, secrecy, working together with an interpreter, conversation technique, legislation concerning asylum seekers, effects from torture, working with families and children, aspects on sexual orientation and more. Each module comprises 1–2 days.

Concerning unaccompanied children there is certain education especially for staff working with this category. Finally, there are courses concerning asylum seekers with a gender perspective (compare the Directive, article 24.1).

In 2005 totally 6,517 workdays were applied for personnel education activities at the Migration Board.

Q.41C. Concerning the deontology of persons working in accommodation centres there are certain regulations on confidentiality. In general the Official secrets Act (1980:100) should apply to activities in the public sector and in ch. 7 there are restrictions concerning individual circumstances. Beyond that there is a regulation in the Act on the reception of asylum seekers § 24 stipulating that staff in accommodation centres or the corresponding (including private actors) are obliged to observe professional secrecy.

Staff at the Migration Board, in the health care service and local authorities’ social welfare services have a duty to observe professional secrecy, and, for instance, staff at accommodation centres sign a document on the matter (compare the Directive, article 14.5). Further, NGOs have pointed out that a guardian (god man) appointed in accordance with the Act on guardian for unaccompanied minors does not formally have a duty to observe professional secrecy.

## **10. IMPACT OF THE DIRECTIVE**

### **10.1 Legal impact of the transposition of the directive**

Q.42. Concerning the translation of the Directive into Swedish there has not been any big problems. However, regarding the term “legal assistance” in article 21.2 (in Swedish “juridisk rådgivning”) there were some considerations in the public investigation that was presented in 2003.<sup>97</sup>

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<sup>96</sup> The share of women working with reception conditions is 64.8 percent. Source: the Migration Board.

<sup>97</sup> Official report SOU 2003:89 EG-rätten och mottagandet av asylsökande.

Q.43. Before the adoption of the norms of transposition of the Directive there were already Acts, Ordinances and State authority instructions concerning asylum seekers.

Q.44. In fact, the Directive did not impose much amendments beyond certain clarifications dealt with above.

Q.45. The amendments referring to the Directive are considered to be of minor importance, for instance concerning the right to information, which before the transposition was practiced but now is explicitly regulated.

## **10.2 Political impact of the transposition of the directive**

Q.46. The transposition of the Directive was not preceded by any extensive debate. One reason is that the impact from the Directive was rather moderate, although for instance NGOs were critical concerning the asylum system, but the criticism was not based on the new Directive.

Q.47. The impact from the Directive on Swedish regulations concerning asylum seekers was insignificant. Further, there was no deterioration concerning the reception of asylum seekers referring to the Directive. There is still more favourable regulation from the asylum seeker's perspective. For instance, children should be assigned schooling within one month (the Directive stipulates three months) and the right to free movement on Swedish territory has not been restricted even if such restrictions should be acceptable referring to the Directive.

## **11. ANY OTHER INTERESTING ELEMENT**

Q.48. The legal structure of reception conditions in Sweden could be difficult to grasp. There is a lot of Acts, Ordinances and regulations on the matter, and many State authorities are involved covering different aspects of an asylum seeker's existence, although the Migration Board is the authority mainly in charge of the reception conditions. For instance, health care entitlements are dealt with by the County councils and local authorities are in charge of unaccompanied children's living in accordance with the new order that came into force in 2006. Sometimes the situation is characterised by certain indistinctness regarding the responsibility for the asylum seeker and a more distinct regulation on these matters has been asked for by many informants in the study.

An example is discussed above in Q.16 and the situation that may occur in case of a successive application. The asylum seeker risks to lose his or her benefits founded on the Social services Act, for instance the right to housing supplementary allowance, since he or she now is covered by the Act on the reception of asylum seekers, and then the asylum seeker could fall between the two Acts with serious consequences for the individual.

Further, the Migration Board is in charge of both the reception in general, the assistance to asylum seekers as well as the exercising of public authority by taking decisions concerning expulsion and more. Hence, the Board is in charge of measures that sometimes put the staff in a role conflict vis-à-vis the asylum seeker. However, the new procedural order with particular Migration Courts that came into force in 2006 will contribute to the separation of at least some aspects.

A problem currently discussed concerning reception conditions in Sweden is that the dealing with applications for asylum takes a long time. In 2005 the average time for dealing with an application, including dealing with appeals was 244 days (compared with 291 days in 2004).<sup>98</sup> Even if there are efforts to cut down the time dealing with cases it is still not satisfying.

Further, even if the information provided to asylum seekers on reception conditions are made in accordance with regulations, many informants have claimed that the information must be improved. The asylum seekers are not familiar with Sweden and there are often misunderstandings etc.

However, disregarding these remarks there are also positive aspects to consider. The involvement of many actors in the care of the asylum seeker also means a step towards integration in society. The local society must take responsibility for the asylum seekers, which is positive, although there are also many times the asylum seeker's needs are not fulfilled in accordance with the political goals.

(Q.49. No further comments.)

(Q.50. No further information.)

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<sup>98</sup> Migrationsverket (the Migration Board), Årsredovisning 2005 (Annual report), p. 10.

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<sup>99</sup> Available on the Government's website: <http://www.regeringen.se/sb/d/108/a/1429>

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## **APPENDIX I**

### **Web links to Acts and Ordinances in Sweden**

#### **General Acts**

The Aliens Act: [Utlänningslag \(2005:716\)](#)

The Aliens Ordinance: [Utlänningsförförordning \(2006:97\)](#)

The Ordinance (2001:720) on treatment of personal particulars in activities referring to acts on aliens law and citizenship: [Förordning \(2001:720\) om behandling av personuppgifter i verksamhet enligt utlännings- och medborgarskapslagstiftningen](#)

The Act (2005:429) on guardian for unaccompanied minors: <http://62.95.69.15/>

The Act (1991:572) on particular control of foreigners: [Lag \(1991:572\) om särskild utlänningskontroll](#)

#### **Asylum and reception**

The Act (1994:137) on the reception on asylum seekers: [Lag \(1994:137\) om mottagande av asylsökande m.fl.](#)

The Ordinance (1994:361) on the reception of asylum seekers: <http://62.95.69.15/>

The Ordinance (2002:1118) on state compensation for asylum seekers: [Förordning \(2002:1118\) om statlig ersättning för asylsökande m.fl.](#)

MIGRFS 07/2005 The Migration Board's instruction on Temporary LMA-card for foreigners in Sweden and a document showing that the holder is an asylum seeker: <http://www.migrationsverket.se/> (search for: 07/2005)

#### **Health care**

The Social services Act (2001:453): <http://62.95.69.15/>

The Health and medical treatment Act (1982:763): <http://62.95.69.15/>

The Ordinance (1994:362) on charge for nursing care for certain foreigners: [Förordning \(1994:362\) om vårdavgifter m.m. för vissa utlänningar](#)

The Ordinance (1996:1357) on state compensation for health and medical treatment for asylum seekers: [Förordning \(1996:1357\) om statlig ersättning för hälso- och sjukvård till](#)

[asylsökande](#)

The Dental service Act (1985:125): <http://62.95.69.15/>

### **Schooling**

The School Act (1985:1100): <http://62.95.69.15/>

The Ordinance (2001:976) on education, pre-school activity and school childcare for asylum seekers: [Förordning \(2001:976\) om utbildning, förskoleverksamhet och skolbarnsomsorg för asylsökande barn m.fl.](#)