



FRA
Thematic Study on Child Trafficking

Sweden
ECPAT Sweden
Maja K.Eriksson (Uppsala University)

Contents

Executive Summary	4
A. General anti-child trafficking framework.....	11
A.1. Ratification of international legal instruments.....	11
A.2. Criminal law framework.....	12
A.2.1. Purchase of sexual services from a child	14
A.2.2. Illegal adoptions.....	15
A.2.3. Child marriages.....	15
A.2.4. Double criminality	16
A.3. Principle of “the child’s best interest” applied to trafficked children	16
A.4. National Plan of Action against child trafficking	18
A.5. Existence of data collection mechanisms	19
A.6. Designated budget of relevant ministries/actors	21
A.7. Mechanisms to monitor the trafficking of children	22
A.8. Existence of National Referral Mechanism	23
A.9. Existence of a training strategy for professional actors	24
A.10. Existence of a policy of non-criminalisation of children victims of trafficking	26
B. Prevention of child trafficking.....	27
B.1. Awareness-raising campaigns to reduce demand for child sexual/economic exploitation	27
B.2. Policies to prevent that children in a vulnerable position (such as unaccompanied asylum- seekers) may become victims of child trafficking upon their arrival in the country.....	28
C. Appointment of legal guardian.....	30
D. Coordination and cooperation.....	31
D.1. Task Forces on child trafficking/co-ordination bodies	31
D.2. Existence of co-operation agreements between Ministries.....	33
D.3. cooperation agreements between state agencies and non-governmental actors.....	33
D.4. Independent monitoring of implementation of protection of personal data	34
D.5. Co-operation agreements between Sweden and countries of origin outside the EU	34
D.6. Support programmes as part international development assistance in countries of origin or within the EU-area	36
E. Care and protection.....	37
E.1. Legal provisions ensuring respect for a reflection period of minimum 30 days	37
E.2. Legal provisions ensuring a right/entitlement to residence to trafficking victims, irrespective of co-operation with police/prosecutor	37

E.3.	Legal framework concerning administrative detention/detention pending deportation for children	39
E.4.	Special safeguards for children who are detained	39
E.5.	Existence of a family tracing programme to allow for family reunification after assessing child's best interests	40
E.6.	Specialised shelter(s) for trafficked children	40
E.7.	Children who leave shelters with unknown destination	40
E.8.	Legal provisions ensuring access to full health care services and education ⁴²	
E.9.	Legal provisions ensuring access to legal assistance	43
E.10.	Taking into consideration special needs of children from ethnic background and with disabilities	44
E.11.	Hotline	45
E.12.	Existence of similar instruments to report other situations of exploitation of trafficked children	45
F.	Best interests determination and durable solutions, including social inclusion/return.....	46
F.1.	Evidence for formalised process for identification of durable solutions based on best interest determination, including risk and security assessment prior to possible return of the child	46
F.2.	Availability of asylum/subsidiary protection for child victims of trafficking	47
F.3.	Participation of the child in the decision-making/ obligatory hearing in all relevant legal procedures	48
F.4.	Access to integration programs	49
F.5.	Special integration programs for trafficked children	49
F.6.	Taking into consideration special needs of children from different background and of children with disabilities	49
G.	Prosecution.....	50
G.1.	Legal provisions for child-sensitive procedures	50
G.2.	Final convictions based on child trafficking cases	51
G.3.	Legal provisions granting trafficked children access to justice, including right to compensation	53
G.4.	Total amount, average amount and range of amounts of compensation paid to trafficked children, per year (2000--2007)	53
H.	Miscellaneous.....	56
H.1.	Supreme Court.....	56
H.2.	Court of Appeal	57
H.3.	District Court in Gothenburg 2006	59

Executive Summary

General anti-child trafficking framework

- [1]. The number of children being victims of trafficking is still unknown in Sweden. The last time the Swedish National Police made an estimation of the number of victims coming to Sweden was in 2004. The estimated figure was between 400-600 children and women. There was no specific data of how many of the numbers *of victims were children*. This lack of statistics concerning children well illustrates the national situation. Children have practically been invisible when it comes to trafficking issues, in which the main emphasis has been on women. As a consequence no special consideration has been taken if the victims are children or adults. Children have been treated as adults and there is e.g. no special units for children with trained personnel where trafficking victims are accommodated.
- [2]. The Swedish government adopted a plan of action to tackle prostitution and trafficking for sexual purposes in July 2008¹. This plan presents five focus areas in order to combat trafficking for sexual purposes: increased protection and support, increased preventive work, increased quality and effectiveness within the judicial system, increased co-operation and increased knowledge. The suggested actions will hopefully improve the situation for children that have been victims of trafficking for sexual purposes in all aspects. The impact of has not been assessed due to the short time of implementation of the plan. Further, the review of the trafficking legislation with the aim at strengthening the protection for children *by clarifying the vulnerable position of the child*, will hopefully also bring improvements. The plan of action regarding trafficking for other purposes is still under review. Until this plan of actions is presented much work remains to be done for children being victims of trafficking in Sweden.
- [3]. Sweden is state party to most of the relevant international conventions with some major exceptions such as the CoE Convention on the protection of children against sexual exploitation.

¹ <http://www.regeringen.se/content/1/c6/11/06/28/c77ec2bb.pdf>

- [4]. The general legal framework to combat child trafficking includes legal provisions regarding the purchase of sexual services from a child, on illegal adoptions, and on child marriages.
- [5]. Trafficked children are treated based on the “child’s best interest” principle, as is clear for the Social Services Act, as well as the Aliens Act. According to the Aliens Act particular attention must be paid to the child’s health and development. However, the meaning of “the child’s best interest cannot be given such a broad meaning that quality of being a child is a sufficient criterion alone for a residence permit being granted.
- [6]. A National Plan of Action against trafficking in human beings, including trafficking of children, was adopted in 2008. Combating trafficking in human beings has been a priority issue for the Swedish government already in the years before 2008, as demonstrated by various initiatives taken by the Swedish government in the context of international cooperation.
- [7]. The National Crime Prevention Council Data includes statistics on trafficking on human as part of its statistics on crime. There are no reliable data on trafficking for labour exploitation or forced labour. The National Police reported until 2004 estimates on women and children trafficked for sexual purposes, but stopped doing so.
- [8]. Various Ministries and Government agencies have designated budgets to finance measures that directly combat or support combating trafficking in human beings, including children.
- [9]. Monitoring the situation regarding trafficking of children is included in the reports of the Swedish Government based on the UN Convention on the Rights of the Child (CRC). Alternative or *shadow* reports that include the issue of trafficking in children are submitted to the Committee on the Rights of the Child by national NGOs. The Swedish National Criminal Investigation Department issues an annual report on the situation of trafficking, which includes trafficking of children.
- [10]. In 2006 and 2007 the Swedish Ministry of Justice operated a referral system, which handled only a few cases.
- [11]. Training for professionals on trafficking in children for sexual purposes is included in strategic approach of the Swedish Government unfolded in the 2008 National Action Plan. Judges and prosecutors are trained on issues relevant to child trafficking. Basic training includes knowledge of the Convention of the

Rights of the Rights of the Child (CRC). Advanced training includes child molest and abuse. Further guidance is available. Sexual crimes against children were addressed in a special project for magistrates (prosecutors and judges) in 2006 and 2007. Training of professionals, including magistrates, on children's rights and other issues relevant to trafficking in children, is also done by national NGOs active in the field of protection of children's rights.

- [12]. Sweden follows a policy of non-criminalising children victims of trafficking and sexual exploitation.

Prevention of child trafficking

- [13]. In the past years the Swedish Government has invested in trafficking awareness building abroad as part of a trafficking prevention strategy.
- [14]. Awareness raising is also part of the 2008 National Plan of Action against sexual exploitation of children. The plan includes a number of proposals for the effective prevention of child trafficking.
- [15]. Preventing unaccompanied children becoming victims of trafficking is entrusted to the cooperation between the Migration Board and the municipal social services. The Migration Board can report to municipal social services their suspicion that a child may become the victim of trafficking, upon which the municipal social service will exerts special care.

Appointment of legal guardian

- [16]. The special Act on legal guardian/trustee for unaccompanied children, which entered into force on 1 July 2005, contains rules for the appointment of legal guardian as well as for his/her mandate.
- [17]. As a rule a guardian is appointed for all unaccompanied foreign children. The age limit is 18 years old. Age assessment is routinely carried out for unaccompanied children seeking asylum. Criticism is exerted by NGOs for the lack of possibility of appeal against decisions and for the inadequacy of the investigations and

decisions. Training for guardians is not compulsory and varies from municipality to municipality.

Coordination and cooperation

- [18]. The co-ordination and co-operation between the authorities such as police, social services, the municipals and the Migration Board, exists. However, improvement is needed. The 2008 National Plan of Action against prostitution and trafficking in human beings for sexual purposes comprises a number of initiatives in order to improve the coordination and cooperation on regional and national as well as international level.
- [19]. Cooperation agreements between state agencies and NGOs exist, among others in the field of awareness raising campaigns, for which NGOs receive funding from the Government. Internationally operating NGOs also have received Government funding for the anti-child trafficking programs.
- [20]. There is co-operation between Sweden and countries of origin outside the EU, but there no overview of co-operation agreements available.

Care and protection

- [21]. Swedish legislation provides for the reflection period for trafficking victims whether or not to enter the asylum procedure required by Council Directive 2004/8/EC. If so, a temporary residence permit for a minimum of 6 months is issued. It is prolonged as long as deemed necessary.
- [22]. Trafficked children have the right to enter the asylum procedure. Residence and support are provided on the basis of the Social Services Act. According to the Swedish Migration Board no child has yet been given temporary stay on the ground of trafficking.
- [23]. The Aliens Act allows for a 72 hour detention period, exceptionally for more than 72 hours. The decision can be appealed. The basic rule is that the provision is applied as a last resort.

- [24]. The research team could identify no information on family tracing programs. There is no information of specialised shelters for trafficked children.
- [25]. There is concern, expressed among others by the Committee on the Rights of the Child, about disappearance of unaccompanied children from Asylum Centres. Police, Migration Board and social services are not able to provide figures.
- [26]. Swedish legislation provides for care for those in immediate need. Holders of a time limited residence permit are even entitled to the same health and medical care as residents. Asylum seeking children are entitled to enter the education system, however not when their application is rejected. Municipalities may allow those children to enter school and have even been given additional Government funding to do so. A victim of trafficking has the right to have a counsel appointed when joining a private claim with a publicly prosecuted offence, such as trafficking.
- [27]. Special needs of children, for example due to disability or ethnic background, are taken into account. The Migration Board takes into account persecution and threats against children other than those from adults, but for example, resulting from their ethnic background and circumstances in their home country.
- [28]. The Hotline based on the Commission's Decision of 15 February 2007 is not yet set up. A hotline and an internet based hotline are operated by an NGO.

Best interests determination and durable solutions, including social inclusion/return

- [29]. A guardian shall be appointed as soon as possible for all unaccompanied minors. A legal guardian is appointed as soon as the preliminary investigation has started. The Migration Board follows the Council of Europe resolution of 26 June 1997 on unaccompanied minors who are nationals of third countries (97/C 221/03). This means e.g. that a minor is never rejected or

expelled alone, and that the responsible authority or institution that shall ensure protection and care.²

Prosecution

- [30]. There are few lawsuits in Sweden regarding trafficking in human beings. In total there are 15 verdicts that have become legally binding, since the law against trafficking in human beings was introduced in July 2002. There are no lawsuits regarding trafficking for other purposes than sexual. In more than 50 percent of the verdicts the victims of trafficking are children³. The reason for that being, is that it is not necessary to prove the criterion “improper means”, when it comes to children; Merely being a child should always be deemed to have abused the child’s defenselessness. Because of that exception it has been easier for the prosecutors to prove trafficking. The penalty for the crime is minimum 2 years up to 10 years imprisonment. The most severe sentence, so far, has been 5 years and 6 months. The new plan of action against prostitution and human trafficking for sexual also in general suggests higher standards and greater efficiency.

Miscellaneous

- [31]. There is a need for a complete survey in order to get a complete picture of the situation in Sweden regarding issues pertaining to children being victims of trafficking. Further there is no comprehensive research on trafficking of children for sexual as well as other purposes in Sweden.

Good practice

- [32]. Since there are few cases of trafficking in general and in particular regarding child trafficking, one cannot talk about a

² Email from Anneli Westerling, Swedish Migration Board, July 13, 2008.

³ Regarding the amount of victims being children, source: Människohandel för sexuella och andra ändamål, lägesrapport 9, Rikskriminalpolisen, (The report of the Swedish National Police on trafficking in human beings for sexual and other purposes, January 1 – 31 December,) p.39

good practice in general. The judgment of the courts varies. There is in particular one child trafficking case from the district court of Stockholm in 2006⁴, which was highlighted in the Swedish National Police yearly report on trafficking in human beings 2006. The court considered the fact that the victims was below 18-years old not in it self could prove that the criterion on control as stated in the provision of trafficking in the Penal code had been reached. The provision states that improper means does not need to be proved when it comes to children, since only being a child should always be deemed to have abused the child's defenselessness. The court applied the rule of improper means in away that is against the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography as well as the preparation of the law and consequently deprived the child from its fundamental rights.

⁴ District Court of Stockholm, 2006-01-20 B 8862-0, p. 82-83.

A. General anti-child trafficking framework

A.1. Ratification of international legal instruments

- [33]. The state of affairs regarding ratification by Sweden of relevant international instruments is the following:
- the Convention on the Rights of the Child (1990) was signed on January 26, 1990 and ratified on 29 June 1990.
 - the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (2000) was signed on September 8, 2000 and ratified on January 1, 2007.
 - the UN Convention against transnational organised crime/Palermo Protocol to prevent, suppress and punish trafficking in persons (2000) was signed by Sweden December 12, 2000 and ratified on April, 30 2004.
 - the ILO Convention Nr. 182 on the worst forms of child labour (1999), was signed on June 13, 2001 and ratified on June 13 2002.
 - Sweden has not yet ratified the Convention on Cybercrime, but signed the convention on November 23, 2001. The possibility of ratification of the Convention is currently being prepared.
 - the CoE Convention on Action against trafficking in human beings (2005). Sweden signed the convention on May 16, 2005 but has not yet ratified. The possibilities of ratification of the convention have been investigated and the analysis is presented in the government report “Människohandel och barnåktenskap – ett förstärkt straffrättsligt skydd” ,SOU

2008:41,(Trafficking in human beings and child marriage – a strengthen protection in the criminal law, SOU 2008:41),⁵

- the CoE Convention on the protection of children against sexual exploitation and sexual abuse (2007) in 2007. Sweden signed the Convention on October 25, 2007 but has not yet ratified.
- Sweden has opted for the dualistic system as regards incorporation of international treaties into domestic law. In other words, a treaty provision may not be directly invoked before Swedish courts or before administrative authorities. CEDAW expressed for example its concern regarding the lack of judicial references to the Convention as well as insufficient data on the prevalence of trafficked girls during the evaluation of Sweden's periodic report under the Women's Convention in February 2008 (UN Doc. CEDAW/C/SWE/CO/7, § 14, § 30).
- In order for a treaty to become part of Swedish law, it must either be transformed into domestic law, i.e. making existing legislative provisions compatible with the treaty obligations, or incorporate through a special act of parliament stating that the treaty shall apply as Swedish law. Currently, only the European Convention on Human Rights has been incorporated and is part of the Swedish legal system since 1 January 1995.

A.2. Criminal law framework

- [34]. On July 1, 2002, legislation that imposed criminal liability for trafficking in human beings for sexual purposes entered into force in Sweden². On July 1, 2004, in order to implement the

⁵ Quotation from governmental report "Trafficking in human beings and child marriage – a strengthen criminal law protection, SOU 2008: 41, regarding Council of Europe Convention on Action against Trafficking in Human Beings

"For Sweden to be able to accede to the convention, a statutory amendment of Chapter 9, Section 16 of the Secrecy Act (1980:100) is required with the aim of protecting information about the victim's private life during the court proceedings. Such a statutory amendment will be effected by the offence of trafficking in human beings being included in the list contained in Chapter 9, Section 16, first paragraph of the Secrecy Act. There are otherwise no statutory amendments required for Sweden to accede to the convention."

United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Crime along with the EU Council framework decision on combating trafficking in human beings (2002/629/RIF), amendments were made to the Swedish legislation. The amendments extended criminalization to all forms of trafficking in persons, including trafficking within national borders and for the purpose of, for example, forced labor or exploitation for removal of organs. So since July 1, 2004, all forms of child trafficking are criminalised within Sweden, according to, Penal Code chapter 4, section 1

- [35]. The Swedish legislation criminalizes anyone who recruits, transports, harbors, receives or takes other similar actions towards a person, thereby gaining control over him/her, in order for that person to be subjected to any forms of exploitation, such as sexual services, removal of organs, forced labor etc.
- [36]. Whether or not the abused consents to be exploited is not taken into account in the criminal judgement. Criminal liability also extends to anyone who takes control of a minor for the above purposes or who hands control of the minor over to another person. If the crime levels against a person younger than 18 years of age no improper means is required for criminal liability, meaning that child trafficking may, but does not have to involve the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. A person found guilty of trafficking in human beings will be sentenced to jail for a minimum term of two years and a maximum of ten years. According to Brottsbalken, BrB, (the Swedish Penal Code) chapter 29 section 2, both the exploitation of some other person's vulnerable position or that person's special difficulties in protecting himself, are considered aggravating circumstances.
- [37]. The legislation has recently been reviewed. The aim of the review has been to facilitate a more effective action to combat trafficking in human beings and to make an assessment regarding whether the description of offences or range of penalties should be changed. Please find in Annex 2 extracts from the summary of the governmental report explaining the envisaged amendments. The proposed statutory amendments are planned to enter into force on 1 July 2009.

A.2.1. Purchase of sexual services from a child

- [38]. A person who induces a child under 18 years of age to undertake or endure a sexual act in return for payment, shall be sentenced for *purchase of a sexual act from a child* and ordered to pay a fine or face imprisonment for up to two years. The Swedish Penal code chapter 6 section 9⁶ states that this provision applies even if the payment was promised or given by another person. "Payment" is not restricted to money but also includes clothing, jewellery and other forms of compensation. An example of such a situation is when a person takes advantage of a young person's lack of maturity, and when by giving recompense, attracts and exploits the young person sexually. This provision extends to include a person who exploits a sexual act paid for by another person. The maximum penalty for this crime is from six months' to two years' imprisonment. The stated purpose of this increase is to emphasise that penal value is greater for an act directed against a child than for an act directed against an adult.
- [39]. In addition, the statutory limitation period for sexual crimes against children was extended so that the limitation period for initiating judicial proceedings does not end until the child turns or would have turned 18 years old. *The Swedish Penal Code* chapter 6 section 12⁷ also criminalises *procuring*; anyone who

⁶ Penal code: Chapter 6, Section 9

"A person who, otherwise than as previously provided in this Chapter, induces a child under eighteen years of age to undertake or endure a sexual act in return for payment, shall be sentenced for purchase of a sexual act from a child to a fine or imprisonment for at most two years

The provision of the first paragraph also apply if the payment was promised or given by another person."

⁷ Penal code, Chapter 6, Section 12;

"A person who promotes or improperly financially exploits a person's engagement in casual sexual relations in return for payment shall be sentenced for procuring to imprisonment for at most four years.

If a person who, holding the right to the use of premises, has granted the right to use them to another, subsequently learns that the premises are wholly or to a substantial extent used for casual sexual relations in return for payment and omits to do what can reasonably be requested to terminate the granted right, he or she shall, if the activity continues or is resumed at the premises, be considered to have promoted the activity and shall be held criminally responsible in accordance with the first paragraph.

If a crime provided for in the first or second paragraph is considered gross, imprisonment for at least two and at most eight years shall be imposed for gross procuring. In assessing whether the crime is gross, special consideration shall be given to whether the crime has concerned a large-scale activity, brought significant financial gain or involved ruthless exploitation of another person."

promotes or financially exploits a person's engagement in casual sexual relations in return for payment shall be sentenced for procuring and is subject to imprisonment for up to four years.

A.2.2. Illegal adoptions

- [40]. Chapter 6, section 6, second part of Föräldrabalken, FB, (The Children and Parents code) prohibits compensation for adoption. This prohibition against compensation is not sanctioned with a penalty, however, it may be that an application for adoption may be refused if either side has been given or been promised compensation.
- [41]. The 1993 Hague Convention on Protection of Children and co-operation in international adoptions is implemented in the Swedish law by *Lag (1997:191) med anledning av Sveriges tillträde till Haagkonventionen om skydd av barn och samarbete vid internationella adoptioner*, (Act (1997:191) regarding Sweden's ratification to the Hague Convention of protection for children and co-operation in international adoptions). The Convention, which contains detailed procedures for international adoptions, aims to strengthen the child's legal protection and to prevent the abduction, sale and trafficking of children.
- [42]. The Since July 1, 2006 there is a provision in the Penal Code, chapter 7, section 2, which criminalizes intermediary improper incitement to consent to adoption. The provision has been established in order to fully meet the commitments contained in the UN Optional Protocol on the Rights of Child on the sale of children, child prostitution and child pornography in the case to prevent children are sold for the purpose of adoption of a child.¹¹

A.2.3. Child marriages

- [43]. In Sweden children may not enter into marriage. Äktenskapsbalken, (The Act Marriage) was amended May 1, 2004 in order to strengthen the protection for children. An exception may be given if special reasons are referred to. Since year 2000, 317 applications for exemption have been filed. 55 children were given exemption, mainly because of pregnancy and maturity. The review "Trafficking in human beings and child marriage - a strengthen criminal law protection also investigated whether child- and forced marriages are satisfactory

protected in the applicable criminal law⁸. It is suggested in the review that a penal provision whereby a custodian who allows a child under the age of 16, who is a Swedish citizen or is resident in Sweden, to enter into a marriage that is valid in the country where the ceremony is performed should be sentenced to imprisonment for at most two years for allowing child marriage. This provision should be introduced into, Chapter 7 of the Penal Code, ‘Offences against Family’

A.2.4. Double criminality

- [44]. In April 2005, Sweden eliminated the requirement for double criminality for Swedish nationals and residents with regard to cases of serious sexual crimes committed abroad against children below 18 years of age. This applies to cases involving the sexual exploitation of a child, procuring, the gross forms of the aforementioned crimes, and the gross exploitation of a child for sexual posing. As mentioned above in the government report: Trafficking in human beings and child marriage – a strengthening criminal protection SOU 2008:41, it is suggested that the requirement contained in Chapter 2, Section 2, second paragraph of the Penal Code on double criminality for offences committed abroad should not apply to trafficking in human beings or the secondary and inchoate forms of offence in the case of trafficking in human beings. Further it is also proposed that a judgment made in another state should not constitute an impediment to a new prosecution in Sweden.

A.3. Principle of “the child’s best interest” applied to trafficked children

- [45]. In the process of implementing the Convention on the Rights of the Child (CRC), reminders of the principle of best interests of the child, (in Swedish legislation referred to as in direct

⁸ Measure 40, in the Action plan for combating men's violence against women, violence and oppression in the name of honour and violence in same-sex relationships, skr 2007/2008:39, it was suggested to analyse whether current legislation offers adequate protection against child and forced marriages in terms of penal sanction.

translation “the child’s best”), has been inserted in Swedish legislation, for example Socialtjänstlagen (2001:453), SoL, (the Social Services Act), the Aliens Act and the Lag (1990:52) med särskilda bestämmelser om vård av unga, LVU, (*Care of Young Persons Act* (1990:52)).⁹ Though not established through a constitutional guarantee, “the child’s best” is an important prerequisite in a growing amount of legal rules. “The child’s best” is furthermore used to give grounds for judgements and decisions. Diverse interpretations of “the child’s best” is however ordained in these different statutes, mostly depending on which forensic area that is at work.¹⁰

- [46]. In *the Care of Young Persons Act*, a provision was introduced in 2003 whereby the best interests of the child is to be a deciding factor when making decisions under the Act.¹¹ This change was introduced in order to further improve the rights of the child in conjunction with compulsory care within social services. There is no legislation establishing the principle of best interests of the child, that focuses specifically on child trafficking. This is an example of a legal provision establishing the principle of best interests of the child as a primary consideration in actions affecting children, including trafficked children, in Sweden.
- [47]. In *the Aliens Act*, “the child’s best” affects and has determined children’s right to residence permit on humanitarian reasons, if the child has lacked sufficient grounds for asylum or residence permit as a person “otherwise in need of protection.”¹² According to the ‘core provision’ contained in Chapter 1, Section 10 of *the Aliens Act* on the best interests of the child, in cases involving a child, particular attention must be given to the child’s health and development and the best interests of the child in general. However, attention to the interests of the child cannot be given such a broad meaning that the quality of being a child alone constitutes a criterion for a residence permit being granted. Nor can the provision be interpreted so sweepingly as to mean that a residence permit should be granted to children solely because they will have better education, rehabilitation and care opportunities in Sweden than in their home country. Such an interpretation would violate the objectives laid down by the Swedish Parliament for migration policy. A new provision on

⁹ Schiratzki Johanna, *Barnrättens grunder*, 3 uppl., 2006, s. 30.

¹⁰ Schiratzki Johanna, *Barnrättens grunder*, 3 uppl., 2006, s. 30.

¹¹ Sweden’s Fourth Periodic Report to the UN Committee on the Rights of the Child 2002–2007 s 21.

¹² Schiratzki Johanna, “Barnets bästa i ett mångkulturellt Sverige”, 2000, p. 91.

residence permits on grounds of particularly distressing circumstances has been introduced in *the Aliens Act*. According to this provision, if a residence permit cannot be granted on other grounds, a permit may be granted if there are particularly distressing circumstances. This provision also lays down that the circumstances referred to in the case of a child do not need to have the same seriousness and weight as required for an adult to be granted a residence permit.¹³ According to *the Convention on the Rights of the Child*, the principle of best interests of the child is to be applied equally on all children within a countries jurisdiction. However in reality, the actual rights of children in Sweden differentiate, amongst other things concerning the rights to education and medical care. This depending on citizenship, habitat and residence. Also on residence permit, if it is time limited or permanent, and on time of staying in Sweden.¹⁴

A.4. National Plan of Action against child trafficking

[48]. On 10 July 2008, the government adopted an action plan for combating prostitution and human trafficking for sexual purposes. The plan covers five priority areas: greater protection and support for people at risk, more emphasis on preventive work higher standards and greater efficiency in the justice system, increased national and international cooperation, and a higher level of knowledge and awareness. The impact of has not been assessed due to the short time of implementation of the plan. Altogether, the government will be investing SEK 213 million in 36 measures up to 2010. Nevertheless, human trafficking has attracted growing attention within a number of policy areas in recent years. E.g. 2003 the government designated SEK 30 million to the police for combating trafficking during 2004-2006.

[49]. Combating human trafficking was also a priority issue for the Swedish government during the Swedish presidency of the EU Council of Ministers in the first half of 2001.

¹³ Sweden's Fourth Periodic Report to the UN Committee on the Rights of the Child 2002–2007 p. 20.

¹⁴ Schiratzki Johanna, *Barnets bästa i ett mångkulturellt Sverige*, 2000, p. 94.

- [50]. At a conference entitled Women and Democracy held in Vilnius, Lithuania, in June 2001, Sweden's Minister for Gender Equality Affairs proposed a Nordic Baltic collaboration featuring joint and national campaigns against trafficking in women. The project, which was concluded in 2002, had the support of the countries' ministers of justice. The campaign committee is expected to submit recommendations on further cooperation at an upcoming ministerial meeting in the spring of 2003.
- [51]. The Ministry of Health and Social Affairs coordinates the Swedish government work on the ratification of the Optional Protocol to the UN Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.
- [52]. The government has drawn attention to the special problems arising in connection with the care of sexually exploited children in Sweden. A working group has been instructed to draw up an inventory of current data about the sexual exploitation of children in Sweden by 2004.
- [53]. A cooperative project with financial assistance from Sweden and Norway has since 1998, been addressing issues relating to the sexual exploitation of children. The project was conceived at the first World Congress against the Commercial Sexual Exploitation of Children, held in Stockholm in 1996. The project website provides a platform for interactive cooperation between child specialists in the region.
- [54]. In February 2003, Sweden organized a conference on the responsibility of the Baltic Sea states for unaccompanied child refugees, including children who have been or risk becoming victims of human trafficking in the region. The declaration by the Barents Euro-Arctic Council in Kirkenes in 2003 contained an undertaking by the Prime Ministers of Denmark, Finland, Iceland, Norway, Russia and Sweden to join in a common endeavor to stop human trafficking in the Barents region.

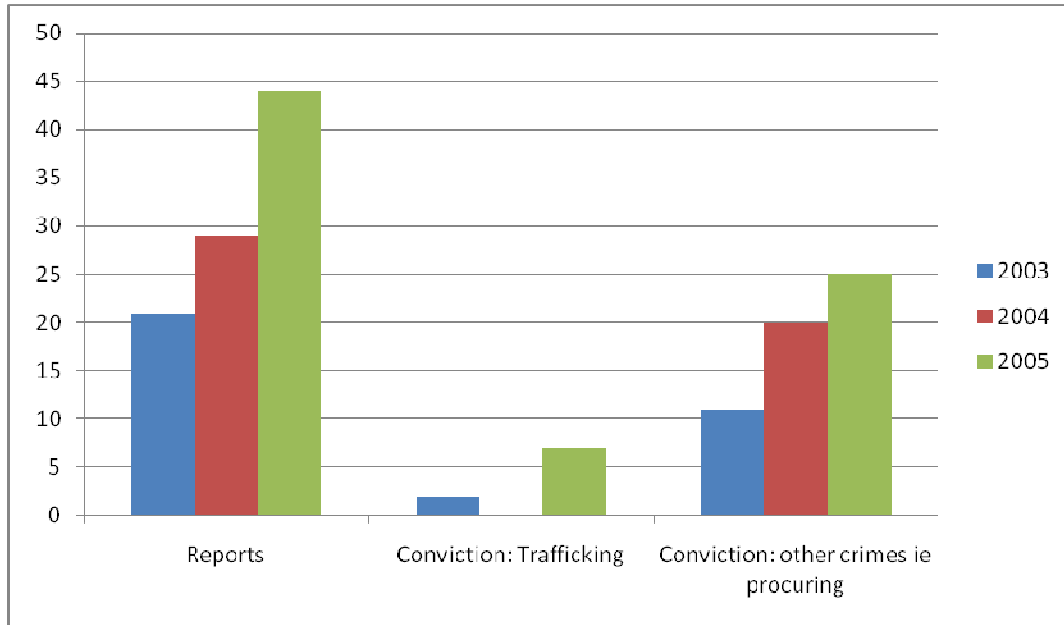
A.5. Existence of data collection mechanisms

- [55]. The statistics exist on the conditions in Sweden derived primarily from Brottsförebyggande rådet (BRÅ) (the National Crime Prevention Council) , which produces statistics concerning the reported crimes, solved crimes, suspects and tried persons, and recidivism. Criminal statistics illustrate the crime on the basis of

the crimes reported to and handled by prosecutors, police, customs, courts and correctional).

- [56]. The hidden statistics on the extent of trafficking for labour exploitation appear to be significant in the light of data from, inter alia, ILO and IOM.
- [57]. There is no data, nor statistics on the number of humans being trafficked for forced labour in Sweden.¹⁵
- [58]. The latest and last (possibly ever) statistic/figures from the Swedish National Police is from 2004, where it is estimated that approximately 400-600 women and children are being trafficked to Sweden for sexual purposes. In the latest annual reports the police has stated that they will not make any further estimations.
- [59]. According to National Police, there were 44 cases concerning trafficking (mostly for sexual purposes) during 2005. 8 people were sentenced for trafficking and 25 people were sentenced for crimes related to trafficking, procuring etc. Several cases also involved crimes such as rape, thefts and possession of narcotics and weapons. It is usually easier for the prosecutor to prove procuring than trafficking.

¹⁵ Ds 2008:7 Människohandel för arbetskraftsexploatering, s. 51 (Ds 2008:71 Human trafficking for labour exploitation). (Ds stands for communication from the ministries)



A.6. Designated budget of relevant ministries/actors

- [60]. The government will invest SEK 213 million in order to fulfill the 36 measures presented in the plan for combating prostitution and human trafficking for sexual purposes, that was adopted on 10 July, 2008.
- [61]. National Police Board has, together with the Public Prosecutor's Office, National Board of Forensic Medicine and Welfare received a mandate to contribute to the further establishment of several experiments in collaboration under the joint roof in investigations surrounding children who are suspected of being exposed to serious crimes such as sexual abuse and mistreatment. The mission will be reported no later than 1 March 2008. A

partial result has been filed in June 2006 (DNR Ju2005/1181/KRIM).¹⁶

- [62]. The Swedish Migration Board has an itemized budget for efforts to prevent people becoming victims of trafficking. This is no different from working with other vulnerable groups such as, for example, victims of torture, victims of honour related violence, etc. A micro-management of resources in this way would create inflexibility in conduct which threatens to seriously delay the implementation of measures to protect vulnerable people. By contrast, the work is governed by instructions and guidelines.¹⁷ According to the information received there is no other designated budget for anti-trafficking measures in general.

A.7. Mechanisms to monitor the trafficking of children

- [63]. In accordance with the UN Convention on the Rights of the Child (CRC), Sweden submits reports to the UN Committee on the Rights of the Child every fifth year. Sweden has so far handed in such reports 1992, 1997, 2002 and 2007¹⁸. National NGOs, which are independent of governments and intergovernmental organisations, also contribute with so called *alternative reports*. Save the Children Sweden and ECPAT Sweden (End Child Prostitution, Child Pornography And Trafficking of Children for Sexual Purposes), are two of the organisations, which submit alternative reports to the committee, where they present their view on how the convention is observed in Sweden. The Children's Ombudsman¹⁹, the Swedish Red Cross, UNICEF Sweden, BRIS (Children's Rights in Society) are other

¹⁶ Source

<http://www.esv.se/StatsliggarenApp/OpenFile?regleringsbrevId=10747&visningTyp=1&mediaTyp=0&period=2008> accessed on 071608

¹⁷ Email from Anneli Westerling, The Swedish Migration Board, July 13, 2008.

¹⁸ Sweden's Fourth Periodic Report to the UN Committee on the Rights of the Child 2002–2007.

¹⁹ In Sweden, children and young people up to the age of 18 have their own ombudsman. The Children's Ombudsman, <http://www.bo.se>, is appointed by the Swedish Government for a term of six years. The Ombudsman's main duty is to promote the rights and interests of children and young people as set forth in the CRC

organisations with special expertise and which cover and report on child issues, including trafficked children.

A.8. Existence of National Referral Mechanism

- [64]. Every year the Rikskriminalpolisen, National Criminal Investigation Department as a national rapporteur composes a report on the situation in Sweden concerning trafficking, including trafficking of children²⁰. In the 2008 National Plan of Action against trafficking in human beings and prostitution it is clearly stated that the National Police Board shall be the national rapporteur regarding trafficking in human beings²¹.
- [65]. For a year, in 2006, Sweden had a specific ambassador for trafficking issues at the Department of Justice. There is now a national co-ordinator for trafficking issues at the Department of Justice. However they have received few cases of reported cases of trafficking. Between November 2006 and November 2007 only three cases of trafficked children came to the national co-ordinator's knowledge, and so far no cases in 2008.
- [66]. As regards those cases of 2007, the victims returned with the help of national co-ordinators in their home countries which in their turn have contact with social authorities (Ukraine and Russia). Probably one of the reasons for why there are not a higher number of reported cases to the Department is because the function is new and it is not so well known in all relevant circumstances.

²⁰

http://www.polisen.se/mediaarchive/4347/3474/4637/Manniskohandel_Lagesrapport_%209_rkp.pdf

²¹ Handlingsplan mot prostitution och människohandel för sexuella ändamål, Skr. 2007/08:167 , (Plan of action against prostitution and trafficking in human beings), p. 23

A.9. Existence of a training strategy for professional actors

- [67]. In the new national plan against prostitution and trafficking for sexual purposes presented in July 2008, the government suggests several new educational initiatives for professionals in order to increase their knowledge about trafficking in human beings
- [68]. Education regarding assaults of children is part of the basic course at office of the public prosecutor. In order to give the prosecutors more detailed knowledge about violence and sexual abuse of children, a course programme called “Assaults of children” has been offered since 2004. The course consists of one basic course and two continuation courses. Prosecutors at office of the public prosecutor have in large extent also taken part in other training initiatives in Sweden and abroad about trafficking. The courses in Sweden are directed to prosecutors, police, personnel at the courts and NGO’s representatives. As a guidance and support for prosecutors having cases of assault of children the office of the public prosecutor has produced a manual: “Processing cases regarding assaults of children”. The manual indicate different starting points for the process, i.e. that the preliminary investigation shall be processed quickly, the prosecutors shall be active as preliminary investigation leaders and the cases regarding assaults shall be divided to a number of specialised prosecutors by drawing of lots.
- [69]. The CRC is brought up in a large number of different educational programs that directly and indirectly may have a bearing on professionals who come in contact with victims of child trafficking. It is particularly common for training on the Convention to form part of teacher educational programmes. Training on the CRC is also very common in healthcare and medical programmes. It is also included in humanities and social science areas, and similarly in certain artistic programmes. The CRC is often part of the mandatory course literature and several universities and university colleges state that the Convention is viewed as an important policy document. At present certain education in the trafficking issues is provided in the police academy.
- [70]. Sections on the CRC and segments on the child in the legal process are included both in the courses for newly appointed judges (Judge Course IV) and in the courses included in the judge training programme (Assistant Judge Course I). One of the units of obligatory training for newly appointed judges has been

given a clear orientation towards child issues and includes, among other things, themes such as violence and abuse of children, child assault, sexual abuse and the Children's Ombudsman's examination of how Sweden lives up to the CRC. In 2005 and 2006, Judge Course IV has been held three times and 82 judges have participated in the course. Assistant Judge Course I has been run five times and 161 participants have attended the course. Judges were given education on trafficking as an optional episode during the fall 2007 in the judge mandatory training programme. During spring 2008 the course is offered as a mandatory episode in the courses for newly appointed judges.

- [71]. At the Swedish Prosecution Authority, there is a special section responsible for training operations conducted by the authority. These can be divided into basic training for all prosecutors and advanced training, in which certain prosecutors participate. During the basic training there is a section specifically devoted to the CRC. Every year about 40 prosecutors attend this basic training. There is also a section in the advanced training – “Young People and Crime” – which deals with the CRC. About 40 prosecutors attend this course every year. Education concerning issues of child molestation is included in the basic course of the prosecutors. To provide the prosecutors with deepened knowledge about violence and molestation on children a seminar
- [72]. With the aim of providing prosecutors with guidance and support when processing preliminary investigations relating to abuse of children, the Swedish Prosecution Authority prepared a handbook in May 2006. There is a special section in the handbook on the CRC. The handbook is available on both the internal and the external website of the Swedish Prosecution Authority. Since the autumn of 2004 the authority has presented a course: “Abuse of children”. One segment of this course is a reading of the above-mentioned handbook. The course is held twice a year with about 20 participants per course.²²
- [73]. Sexual crimes against children have also been addressed in special project called “Humanjuridik” (Humane Law). In 2006 and 2007, the National Courts Administration together with the Public Prosecutor's Office held a joint training-course on trafficking for prosecutors, judges and lawyers.

²² Sweden's Fourth Periodic Report to the UN Committee on the Rights of the Child 2002–2007 page 13.

A.10. Existence of a policy of non-criminalisation of children victims of trafficking

- [74]. In Sweden merely the purchase of sexual services is criminalised in the Swedish Penal Code. Non-criminalisation of prostitution applies equally on adults who vend sexual services as on children who do so, although for a variety of different protective reasons.
- [75]. The law is regarded as a complementing instrument for the law enforcement agents in their fight against trafficking.

B. Prevention of child trafficking

B.1. Awareness-raising campaigns to reduce demand for child sexual/economic exploitation

- [76]. The Government of Sweden continued its trafficking prevention efforts. In 2007, the Swedish International Development Agency (SIDA) continued funding awareness-building projects in the former Yugoslavia, Romania, Albania, and Bulgaria. SIDA also contributed \$42,000 to a UNODC project based in Brazil to counter trafficking and migrant smuggling. The Ministry of Foreign Affairs eliminated the position of Swedish Ambassador for International Cooperation against Trafficking in Human Beings. Sweden monitored immigration patterns for evidence of trafficking and continued its annual report, assessing trafficking trends and government efforts. In March 2007, the Swedish National Defense Ministry adopted new regulations, organized an education campaign, and distributed anti-trafficking awareness material to Swedish troops being deployed as international peacekeepers.²³
- [77]. In 2002, the Swedish film *Lilya 4-ever* was launched. The film tells the story of 16 year-old Lithuanian girl who, after being abandoned by her mother and without any adult supervision, is approached by a young man who becomes her boyfriend and promises her a job picking vegetables in Sweden. She eagerly accepts the invitation but upon arrival is locked up in a flat and sexually exploited. The film is based on the true case of a Lithuanian girl trafficked to Sweden; none was prosecuted due to various loopholes in the trafficking legislation at the time.
- [78]. The film was shown in numerous cinemas around the country for about a year. ECPAT Sweden, an NGO, invited government officials, border police, customs officers, coast guards and staff of the Swedish Board of Migration, to see the film. All invited guests reported that their understanding of child trafficking had been enormously enhanced by watching the film. It has since

²³ <http://www.gvnet.com/humantrafficking/Sweden-2.htm> accessed on 07/17/08 (Extracted from U.S. State Dept Trafficking in Persons Report, June 2008)

been used as an educational tool in Swedish schools, and in awareness raising activities in several European countries.

- [79]. The film's impact on Swedish society has probably advanced the legal reform on the human trafficking law that was subsequently undertaken. Another important achievement was attributed to the film: in 2003, the Swedish Government designated SEK 30 million (approx. US\$4,070,000), for the National Police to use in combating trafficking in human beings.
- [80]. UNICEF Sweden and the Socialstyrelsen, (National Board of Health and National Board of Health and Welfare) have together produced a publication²⁴, for professionals meeting children, identifying risk factors of trafficking.
- [81]. ECPAT Sweden carried out a campaign in 2006, addressing demand. A short film was shown at numerous cinemas around the country. When buying the ticket all visitors received a short brochure about trafficking in human beings and demand. Posters addressing demand were also published in public spaces around the country. At the same time information about trafficking in human beings was published in several Swedish newspapers.
- [82]. In the government's newly (July 2008) adopted plan of action against trafficking in human beings and prostitution, there are several proposals in order to raise awareness about trafficking in human beings, addressing both children and adults.

B.2. Policies to prevent that children in a vulnerable position (such as unaccompanied asylum- seekers) may become victims of child trafficking upon their arrival in the country

- [83]. In the case of unaccompanied asylum seeker legislation for the protection of children has been in force since 1/7 2000. The municipal social services authorities have full responsibility to ensure the care and protection for this group of children.

²⁴ <http://www.unicef.se/assets/kan-det-vara-manniskohandel.pdf> accessed on 081808

According to the Swedish Migration Board, the working relationship with social services is good²⁵. The Migration Board reports as they are obliged to do, to social services when they suspect that a young person can be a victim of trafficking or anything else that gives the Migration Board reason to believe that social services may need to act to protect the young persons. The responsibility to act to protect the young rests since the 1/7 2006 entirely on the municipalities.

- [84]. With regards to children with family, the Swedish Migration Board has developed guidelines to ensure that they get a good reception. These guidelines include measures ensuring that there is a close co-operation with the local social services throughout the reception process. The notification must be made as soon as there is reason to suspect that a child may need social assistance for any reason. Appointment of legal guardian.

²⁵ Mail correspondence Anneli Westerling, July 13, 2008 the Migration Board²⁵,

C. Appointment of legal guardian

- [85]. If the child is unaccompanied, the social welfare or the Migration Board is to notify the need for a guardian to the Chief Guardian of the city where the child resides²⁶. The Chief Guardian is a municipal authority, who has the task to supervise the guardian. Lag (2005:429) om god man för ensamkommande barn,²⁷ (Law on the guardian for unaccompanied children) that came into force on July 1, 2005, expanded the mandate of the guardian, who now also can serve as caretaker for the child. The A legal/plaintiff guardian shall be appointed by the court, as soon as the preliminary investigation is initiated²⁸.
- [86]. A guardian is appointed for all unaccompanied foreign children. The age limit is 18 years old, in accordance with the Convention on the rights of the child, Act on the guardian for unaccompanied children, section 1.
- [87]. Age assessment is carried out routinely regarding unaccompanied asylum seeking children. The age assessment is administered by the Migration Board according to 3 § *'Överenskommelse om mottagande av asylsökande barn utan legal vårdnadshavare i Sverige, s.k. ensamkommande barn'*, (Agreement of reception of asylum seeking children without legal guardian, unaccompanied children). For such procedures, there is a hand book. The government has been criticized by NGOs for among others the lack of possibility to appeal a decision, not giving the children the benefit of the doubt, and the inadequacy of the investigations and assessments carried out by migration authorities.
- [88]. There is no compulsory training for guardians. The training varies from municipality to municipality. In Stockholm there is now a possibility to attend a voluntary course for ten hours. All new guardians receive a brochure about the relevant laws and the procedure at the Migration Board etc.

²⁶ Lag (2005:429) om god man för ensamkommande barn.,(Act on legal guardian for unaccompanied children), §3, (section 3).

²⁸ Lag (1988:609) om målsägandeбитräde, (Act on plaintiff guardian), §1, (section 1),

D. Coordination and cooperation

D.1. Task Forces on child trafficking/co-ordination bodies

- [89]. In 2005, the development partnership ‘Samverkan mot trafficking’ [co-operation against trafficking]²⁹ was formed – a unique co-operation in which authorities, independent organisations, church societies, museums, and universities participate. The co-operation lasted for three years.
- [90]. The work of the development partnership was organised into three subject areas. The aim of this subject area was, within the Stockholm, Skåne, and Västra Götaland counties, to streamline legal procedures against the perpetrators, improve support for the victims of human trafficking, and facilitate a dignified and organised return to their country of origin or another country.
- [91]. The authorities also carry out knowledge and method development, based upon their practical co-operation. The aim is to focus on the return process, and to develop a network of support functions – before and after the return – including safe houses and the opportunity to work and study. A hotline will be opened, and regional resource centres will be created for the victims of human trafficking. The aim is to create a qualified platform for public debate, increase awareness, and change the attitudes of the authorities, organisations, and individuals. An exhibition on trafficking with a supplemental programme opened at the Museum of World Culture in Gothenburg in 2006.
- [92]. The co-operation against trafficking is a development partnership within the European Social Fund, called Equal Programme. The partnership consists of BalticFem, Caritas Sweden, Hela Människan, Women’s Forum, the Male Network, The County Administration of Västra Götaland, the Police Authority in Västra Götaland, the Prostitution Unit in Stockholm, Södermalm’s Baptist Congregation, the Museum of World Culture/the National Museums of World Culture, and the Public Prosecution Office. Also participating is a safe house with more than five years’ experience of dealing with female victims of

²⁹ Quotation from the following website: <http://www.samverkanmottrafficking.se/english.asp>

human trafficking. Other project participants and co-financers are the Swedish Migration Board (Stockholm, Gothenburg, Malmö), the Police Authority in Stockholm, the County Councils of Stockholm and Skåne, Gothenburg's City, the Prostitution Group in Malmö, the Police Authority in Skåne, and 'Museion', Gothenburg University. There are co-operation partners in Italy, Latvia, and Greece. The aim of this international co-operation is to increase awareness of human trafficking and to exchange experiences at government agency and grass root level. The co-operation against trafficking is partly financed by the EU/European Social Fund and is organised by the Women's Forum foundation.

- [93]. The Nordic-Baltic Task Force was formed at a foreign minister meeting in Tallinn in 2003, to focus on trafficking for sexual purposes as well as for forced labour. Since 2006, the working group has been expanded to also include the Baltic Sea States, within CBSS, which is an overall political forum for regional intergovernmental co-operation³⁰. The CBSS operates a special project called "The Working Group for Cooperation on Children at Risk, (WGCC), which was established in October 2001. The WGCC is tasked with identifying, supporting and implementing cooperation on children at risk with the states and partner organisations in the region. Child sexual exploitation and separated and trafficked children in the region are two focus areas.

*"The Child Centre serves as a web-based focal point for information and contact between professionals and officials on research, seminars and ongoing projects concerning children at risk in the Baltic Sea region. Its objectives are to increase awareness and knowledge of services and methods to prevent and protect children from violence and abuse and to increase expertise in how to rehabilitate children who have been exposed. The Children's Unit organises expert meetings, seminars and other activities within the prioritised areas. The Children's Unit thus promotes collaboration and contacts, enhancing the sharing of expertise between professionals working with issues related to children at risk both within the public sector and in the NGO sector. As of March 2002 the Children's Unit is an integrated part of the CBSS Secretariat."*³¹

³⁰ The official website of CBSS is: <http://www.cbss.org/structure/ththb/>

³¹ Quotation from the following website: <http://www.cbss.org/structure/wgcc/>

D.2. Existence of co-operation agreements between Ministries

- [94]. An ambassador against trafficking of human beings was appointed by the government in 2006. The Ambassador, however, focused not first and foremost on human trafficking to and from Sweden but on the coordination and streamlining the thematic issues in the Swedish foreign policy.

D.3. cooperation agreements between state agencies and non-governmental actors

- [95]. The Swedish government funds NGOs in Sweden that are engaged in combating human trafficking in Sweden. Funds have been given support to awareness campaigns. ECPAT Sweden e.g. carried out a campaign in 2006, addressing demand. A short film was shown at numerous cinemas around the country. When buying the ticket all visitors received a short brochure about trafficking in human beings and demand. Posters addressing demand were also published in public spaces around the country. At the same time information about trafficking in human beings was published in several Swedish newspapers.
- [96]. At an international level, support has been allocated to an Anti-Slavery programme in West Africa. Swedish NGOs receiving assistance include *Rädda Barnen* (Save the Children), which supports a number of programs and projects in Europe and Asia, and the *Kvinna till Kvinna* and Women's Forum Foundations (*Kvinnoforum*), which mainly operate in the Balkans and the Baltic countries. *Nettverk i Nord*, set up to combat prostitution and trafficking in women in the northern part of Sweden, Norway, Finland and north-western Russia has received Sida³²

³² Styrelsen för internationellt utvecklingsarbete, Sida, (the Swedish International Development Cooperation Agency), is a government agency under the Ministry for Foreign Affairs. Sida's goal is to contribute to making it possible for poor people to improve their living conditions.
www.sida.se

funding for a major information project against trafficking in women in the region.³³

D.4. Independent monitoring of implementation of protection of personal data

[97]. There are no data on this issue.

D.5. Co-operation agreements between Sweden and countries of origin outside the EU

[98]. Sweden's commitment to combating human trafficking – nationally, in the EU or elsewhere in the world – has grown rapidly in recent years. It is pursued in various policy areas and focuses primarily on transnational organized crime, poverty reduction, social security, economic development, migration, gender equality and child protection.

[99]. A number of ministries, authorities and non-governmental organizations (NGOs) in Sweden are actively engaged in combating human trafficking and supporting its victims. Sweden extends support for measures, projects and programs to fight human trafficking in Central and Eastern Europe, the Western Balkans, South and Southeast Asia and West Africa. It has initiated joint measures against trafficking as part of EU regional cooperation with Asia. This initiative was served as a catalyst for the further development of Swedish foreign policy in this area.

³³ Department for Global Development: Poverty and Trafficking in Human Beings: A strategy for combating trafficking in human beings through Swedish international development cooperation (ISBN 91-7496-322-8) , 2003, p. 33

Regional cooperation has also been initiated in connection with the current dialogue between the EU and Africa.³⁴

[100]. There is no list available at the Ministry of Foreign Affairs regarding bilateral agreements.

³⁴ Department for Global Development: Poverty and Trafficking in Human Beings: A strategy for combating trafficking in human beings through Swedish international development cooperation (ISBN 91-7496-322-8) , 2003, p. 8.

D.6. Support programmes as part international development assistance in countries of origin or within the EU-area

- [101]. A request for information on this issues has been submitted to the Swedish Migration Board. No information has been provided until date.

E. Care and protection

E.1. Legal provisions ensuring respect for a reflection period of minimum 30 days

- [102]. In October 2004, amendments were made to the in the Aliens Act, Chapter 5 Section 15, enabling a time limited residence permit to be issued to a victim or witness of any crime in general, if it is deemed necessary in order to conclude a preliminary investigation or the proceedings in a criminal case. According to the Aliens Act. The temporary residence permit shall last for at least six months.³⁵
- [103]. On 1 July 2007 the Aliens Act was amended as a result of Council Directive 2004/81/EC of 29 April 2004, all foreign victims of trafficking are granted temporary residence permit for a minimum 30-day reflection period to consider whether to participate in the criminal investigation/ proceedings or not. If so, the permit is prolonged for a minimum period of six months, and prolonged as long as is deemed necessary for the proceedings.

E.2. Legal provisions ensuring a right/entitlement to residence to trafficking victims, irrespective of co-operation with police/prosecutor

- [104]. A child who has been trafficked has the right to apply to asylum, as do any foreign person in Sweden.
- [105]. According to the Swedish Social Services Act, each municipality has the ultimate responsibility for social services within its boundaries. They shall ensure that measures are taken to create a

³⁵ Regeringens skrivelse 2005/06:95, En nationell handlingsplan för de mänskliga rättigheterna 2006-2009, page 82-83.

good social environment and good conditions for children and young persons in need of special support from the community. In the course of its activities they shall promote the right of the individual to, among other things, housing. When measures affect children, the requirements of consideration for the best interest of the child shall be specially observed. A child is any person under 18 years of age, regardless of origin or nationality.

- [106]. The Social Services Act is a framework legal regulation, meaning that an assessment in each specific case needs to be done. Secure residence and support is usually supplied through the social welfare services or through non-profit organisations. Responsibility to ensure the welfare of children in the municipality is according to the Convention on the Rights of the Child (1990), to cover all children regardless if the residence is temporary or permanent, legal or illegal. In effect a child who has been granted temporary stay (which they acquire by co-operation with prosecutor and police), is given a type of protection during this time period.
- [107]. In the above mentioned governmental report “Trafficking of human beings and child-marriage – a strengthen protection in the criminal law” one can read as follow regarding residence permits for victims of trafficking in human being: *“The powers to grant a permanent residence permit contained in the Aliens Act (2005:716) are sufficient to satisfy the need to grant such residence permits to victims of trafficking in human beings who have actively assisted as witnesses or aggrieved parties and who as a consequence thereof are in need of protection in Sweden. In our opinion, there is no need for any further provisions within the area of protection aimed at this particular situation. On the other hand, the provisions of Chapter 5, Section 6 of the Aliens Act should be made clearer by it being explicitly stated in the provision that, when making an assessment, particular account should be taken of whether the alien has been subjected to trafficking in human beings.”*³⁶
- [108]. According to information received from the Swedish Migration Board no child has yet been granted temporary stay on grounds of trafficking.

³⁶ Människohandel och barnäktenskap – ett förstärkt straffrättsligt skydd, SOU 2008:41, (Trafficking of human beings and child-marriage – a strengthen protection in the criminal law, SOU 2008:41”, p. 25

E.3. Legal framework concerning administrative detention/detention pending deportation for children

- [109]. According to *the Aliens Act chapter 10 section 5 on Detention and supervision of aliens*, a child may be detained. However not for longer than 72 hours, and if there are exceptional grounds for a further 72 hours. Furthermore the child may not be separated from both its custodians, and a child that does not have a custodian in Sweden may only be detained if there are exceptional grounds. Persons over the age of 18 years old may be detained for additional reasons. The decision of detention can be appealed, and the police/Migration board shall see to it that an interpreter assists the child if needed. The basic rule is that the provision on detention is to be administered very restrictively, as a last resort.³⁷ Most children who are deported are not at all held in detention. A child may not be placed in correctional institution/facilities, custody or police arrest.

E.4. Special safeguards for children who are detained

- [110]. According to the Migration Board Detention Unit in Märsta³⁸, it is extremely rare that a child is detained, and if so, it is mostly because there is uncertainty concerning the age of the child or because he/she is detained with the rest of the family, but at most this occur five times a year. The Detention Unit in Märsta is divided in two units. One of these units is adapted for the stay of women and children, and to this unit only the staff has access. The Detention Unit also has access to administrators who specialises in trafficked children if so needed.

³⁷ Barnets rätt, 2 uppl., 2003, Hobohm Susanne, p. 169.

³⁸ Correspondence July, 2008, Mikael Zaar at the Migration Board Detention Unit in Märsta

E.5. Existence of a family tracing programme to allow for family reunification after assessing child's best interests

[111]. Unknown, no data encountered.

E.6. Specialised shelter(s) for trafficked children

[112]. There is no overview of or information if there are any specific shelters for trafficked children in Sweden³⁹.

E.7. Children who leave shelters with unknown destination

[113]. The UN Committee of the Rights of the Child and the UN Special Rapporteur have addressed concerns about the unaccompanied children disappearing from the Asylum Centres.

[114]. The committee has recommended improved joint action between Police, Migration Board and social services, to be able to act efficiently when children disappear. Until recently, the Migration Board did not even provide statistics of missing children.

[115]. The last four years 2005-2008, approximately 100 Chinese children have come to Sweden. The children have been between 13-18 years old. They seek asylum, are accommodated in Asylum Centers and then suddenly disappear. The authorities do not have the authority to keep the children locked up since they are seen as asylum seekers / applicants waiting for their asylum decision.

³⁹ The social welfare services confirmed that there is no national overview of the number of shelters for trafficked women or children.

- [116]. According to the Migration Board⁴⁰ no detailed follow up has been conducted since 2003 and today, such a follow-up would be quite meaningless when the responsibility to ensure the protection and care for those children the previous follow-up is transferred on to the social services (local government authorities). These social services do not provide any statistics of this kind. Even though the unaccompanied children have their own housing, care and protection through social services today, the migration board no longer makes this follow up on the missing children. However, it is the Migration Board that reviews these minors' applications for international protection and Social services should thus report to the Migration Board when a young person leaves the shelter. According Migration Board, 108 unaccompanied children disappeared from the shelters in 2007 and until the 27th May 2008, 42 unaccompanied children had left the shelters⁴¹.
- [117]. In 2007, police noted an increase in women and children under the age of 15 trafficked from Romania and Bulgaria for the purposes of forced begging and petty theft. Authorities also observed a renewed influx of unaccompanied Chinese children, 23 of whom disappeared from Swedish asylum centres in June 2007. Boys and young men from the United Kingdom were trafficked to Sweden for the purpose of forced labour; these victims were forced to work on construction sites, lay asphalt, do yard work, and perform other odd jobs. During 2006, it was estimated that 95 children disappeared from Asylum Centers upon arrival to Sweden.
- [118]. According to Migration Board there has been an decrease compared to 2005 when 153 children disappeared from the shelters. One explanation is the measures taken against Chinese unaccompanied children. It has been revealed that disappearances have been a part of organized criminal activity in which Sweden was used as a transit country. Swedish authorities have been in contact with authorities in China and initiated co-operation in this matter.
- [119]. A study by the Migration Board was published in 2003, regarding unaccompanied children disappearing during 2002. The Migration Board suspected 11 cases on trafficking in human

⁴⁰ Correspondence Anneli Westerling, July 13, 2008, the migration Board

⁴¹ Correspondence Anneli Westerling, July 13, 2008, the migration Board

beings⁴². Government sources expressed the fear that as many as 30 asylum-seeking girls have been trafficked and that some of these children have been used for commercial sexual exploitation.

E.8. Legal provisions ensuring access to full health care services and education

- [120]. According to Hälso- och sjukvårdslagen (1982:763), (the Health and Medical Service Act), section 4, the county council, shall offer any person who is present within a county council area and who is in need of immediate health and medical services, such services. People staying in Sweden with a time limited residence permit, issued by the leader of preliminary investigation, are entitled to the same health and medical service as the resident living in the county council⁴³.
- [121]. There is a currently a proposal for a new Act, a Lag om hälso- och sjukvård åt asylsökande m.fl. (Act of health and medical service for asylum seekers and others) that suggests that children that have applied for a residence permit and children hiding from the enforcement of a decision to refuse entry or deportation, shall be offered the same health and medical services as children living in Sweden. However the proposal does not include children without documents and children that for any other reason illegally stay in Sweden. These children are only offered immediate aid as mentioned above, according to the Health and Medical Service Act, section 4.
- [122]. Legal provisions ensuring access to education, in particular to secondary education and to vocational training and number of trafficked children receiving such education/training (2000-2007) Asylum-seeking children are entitled to education, pre-school activities and school childcare on the same terms as children resident in Sweden.⁴⁴ Children who have had their asylum application rejected and who are avoiding enforcement of a refusal of entry or deportation order ('children in hiding'), do not

⁴² Kunskap om sexuell exploatering i Sverige, SOU 2004:71, (Government report "Knowledge about sexual exploitation in Sweden", SOU 2004:71), p. 108

⁴³ Regeringens skrivelse 2005/2006:95, En nationell handlingsplan för de mänskliga rättigheterna 2006-2009, page 83.

⁴⁴ Sweden's Fourth Periodic Report to the UN Committee on the Rights of the Child 2002 2007 page 53.

have a corresponding right. The municipalities may however on a voluntary basis receive those children at school and they have also been allocated extra funds from the Government in order to do so.

- [123]. During 2006–2007 an inquiry has been conducted to review the conditions for regulating the right to education, pre-school activities and school childcare for children in hiding. The inquiry has, among others, investigated what the possible consequences of giving children in hiding the right to education might be, and also how these could be resolved. These issues include, among others, how a new system could be compatible with the current rules for access to information and secrecy and with the obligation to provide information and notification to the police and social welfare services. The inquiry also highlighted possible practical difficulties, such as how the work of the police in enforcing orders will be affected, and similarly what compensation the municipalities should get and how this compensation should be structured. The report of the inquiry, presented in May 2007, proposed a regulated right to education for children in hiding. This proposal is currently being processed by the Government Offices.⁴⁵
- [124]. According to the Swedish National Agency for Education, which is the central administrative authority for the Swedish public school system, no such numbers of trafficked children receiving education/training is available⁴⁶. To his knowledge, there is no list or directory to which they have access where you can see what previous history a child has of being exposed to crimes. And as far as medical/health- and patient records go, there is secrecy involved. The type of background information they have access to is e.g. the child's immigration year.

E.9. Legal provisions ensuring access to legal assistance

- [125]. According to Rättegångsbalken 1942:740, RB, (the Swedish Code of Judicial Procedure), when a private claim is following from a crime, the action against the suspect for the private claim

⁴⁵ Sweden's Fourth Periodic Report to the UN Committee on the Rights of the Child 2002–2007 page 53

⁴⁶ Corerrespondence, July 2008, Anders Broberg at to the Swedish National Agency for Education

may be conducted in conjunction with the criminal proceeding. When a private claim is due to an offence subject to public prosecution, such as trafficking, the prosecutor, upon request of the aggrieved person, shall also prepare and present the aggrieved person's action in conjunction with the prosecution. And according to section 1, Lag (1988:609) om målsägandebiträde, (Act on Counsel for the plaintiff) when a preliminary investigation has been initiated a counsel for the plaintiff shall be appointed, if the crime is e.g. trafficking, sexual offences, kidnapping or other severe crimes. The counsel for the plaintiff is to care for the plaintiff's interests in the case and also to provide with help and support. The counsel is also to prepare and present the plaintiff's case, if the prosecutor in conjunction with the prosecution does not already prepare it.

- [126]. The research team did not identify information on the number of trafficked children receiving legal assistance e.g. for claiming compensation⁴⁷.

E.10. Taking into consideration special needs of children from ethnic background and with disabilities

- [127]. According to the provisions contained in Lagen (1996:137) om Mottagning av Asylsökande, LMA,(Law on the reception of asylum seekers), the Swedish Migration Board has to ensure that all asylum-seekers enjoy a decent standard of living (including support because of disability) while their applications are under consideration. This includes, of course, children seeking asylum along with or without their parents.
- [128]. The social services are responsible for unaccompanied asylum-seeking children, to see to that these children's needs are met. In the examination of asylum to the Migration Board also take account of the persecution and threats against children can be different than those for adults, and that these may have an ethnic character. ⁴⁸Forms of persecution may vary due to ethnic background and circumstances in their home country. The Migration Board has access to a large number of documents

⁴⁷ The National Courts Administration did not have any data.

⁴⁸ "Wikren-Sandesjö Utlänningslagen med kommentarer", Norstedts publishers 2006 page 123-ff in particular page 136 pc 3 on the provisions of Chapter 4, Section 1 in Aliens Act

available in a country information system (LIFOS), which describes this phenomenon in various countries.⁴⁹

E.11. Hotline

- [129]. The hotline according Commission Decision of 15 February 2007 to report missing and sexually exploited children, has not yet been established.

E.12. Existence of similar instruments to report other situations of exploitation of trafficked children

- [130]. Between 2000 and 2005, Save the Children Sweden operated a hotline to report child pornography on the Internet. ECPAT Sweden (see above), then launched its web-based hotline (www.ecpathotline.se) where the general public anonymously can submit information about suspected child pornographic web sites, suspected cases of trafficking in children for sexual purposes and child sex tourism. To facilitate this work, software called NetClean Analyze developed by the Swedish company NetClean Technologies AB automatically separates previously reported images from new ones. The reports are sorted and forwarded to the National Police for investigation.

⁴⁹ Email from Anneli Westerling, Swedish Migration Board, July 13, 2008.

F. Best interests determination and durable solutions, including social inclusion/return

F.1. Evidence for formalised process for identification of durable solutions based on best interest determination, including risk and security assessment prior to possible return of the child

- [131]. In June 2008 the largest groups of unaccompanied children came from Somalia, Iraq and Afghanistan.⁵⁰
- [132]. In 2006, there was an immense increase of unaccompanied children seeking asylum in Sweden (820) (50 per cent compared to 2005). In 2007, 1264 children applied for asylum. A majority of the children are boys between the age of 13 and 17.⁵¹ Throughout the whole asylum process the Migration Board must take into account specifically the children's best interests. Children should have the opportunity to speak both during the asylum investigation and generally during the waiting period. The Board should support children in the best possible way without depriving the parents of their responsibility.
- [133]. From July 1, 2006, the municipal authorities are be responsible for receiving a child arriving alone. For those children who arrive without parents or a guardian, the municipal authority shall immediately appoint someone to take the parents place. That person is known as a custodian. In order to help the child with the asylum application, public counsel is also appointed. The United Nations Convention on the Rights of the Child confirms that a

⁵⁰ <http://www.migrationsverket.se/> accessed on 071608

⁵¹ http://www.migrationsverket.se/infomaterial/om_verket/statistik/kort_om_migration.pdf, 2007, p. 12

child has a right to be reunited with his/her parents. It is therefore an important task to try to find the parents or some other guardian.

- [134]. Risk and safety is a part of asylum procedures for unaccompanied minors. The Migration Board follows the Council of Europe resolution on minors who are nationals of third countries unaccompanied minors. This means that a minor is never rejected or expelled alone, without any legal guardians or other relatives, and the responsible authority or institution that can ensure protection and care. It should be noted that the resolution includes third-country nationals. It may well be victims of trafficking from other EU-countries. In these cases, it is very rare that the Swedish Migration Board has responsibility to assist the young to return. It is often the social services that has this responsibility.⁵²

F.2. Availability of asylum/subsidiary protection for child victims of trafficking

- [135]. When the child applies for residence permit, the police or prosecutor should give its opinion on the importance of the child to participate in the crime investigation.⁵³
- [136]. The migration office has a duty to report all suspicions of trafficking to social services. It is well known that the migration office get in contact with people that might be victims of human trafficking for sexual purposes. Problems can be revealed to the authorities` actual cases concerning tourist applications, residence permits i.e. and in these cases it is common that the victim of some reason try to hide the problem.
- [137]. In order to legalize the child's residence in Sweden an application for residence permit needs to be sent to Migration office. It is then of crucial importance that the background to the child's need of residence in Sweden are investigated, i.e. if the child is in Sweden of its free will, social and living conditions documented well. If the unaccompanied child (or children accompanied with other adults then the parents) has parents in its homeland, social services should be contacted and investigate

⁵² Email from Anneli Westerling, Swedish Migration Board, July 13, 2008.

⁵³ Samverkansplan för stöd till utsatta för människohandel, Region Stockholm, mars 2004, p. 15

whether the child is to be reunited with the parents or stay with the legal guardians in Sweden

- [138]. New provisions on the "residence permit because of extremely distressing circumstances" have been introduced. If a residence permit cannot be granted on other grounds, this basis is applied. Further the person's health, ability to adapt to Sweden and the situation in their home country are to be taken in account. Children's particular circumstances do not need to have the same weight and gravity as an adult to be granted a residence permit.
- [139]. In the governmental report Trafficking of human beings and child-marriage – a strengthen protection in the criminal the above mentioned governmental report Trafficking of human beings and child-marriage – a strengthen protection in the criminal law, one can read as follow regarding residence permits for victims of trafficking in human being:" The powers to grant a permanent residence permit contained in the Aliens Act (2005:716) are sufficient to satisfy the need to grant such residence permits to victims of trafficking in human beings who have actively assisted as witnesses or aggrieved parties and who as a consequence thereof are in need of protection in Sweden. In our opinion, there is no need for any further provisions within the area of protection aimed at this particular situation. On the other hand, the provisions of Chapter 5, Section 6 of the Aliens Act should be made clearer by it being explicitly stated in the provision that, when making an assessment, particular account should be taken of whether the alien has been subjected to trafficking in human beings

F.3. Participation of the child in the decision-making/ obligatory hearing in all relevant legal procedures

- [140]. The research team has not been able to identify information to evidence the respect for participation of the child in the decision-making/obligatory hearing in all relevant legal procedures (eg. procedures regarding asylum, subsidiary protection, return, special procedures under Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to victims of trafficking, provision of translators and translations regarding basic information on rights and duties etc.).

F.4. Access to integration programs

- [141]. The research team has not been able to identify information to evidence access to integration programmes (similar to refugee status), including access to full health care, education and vocational training.

F.5. Special integration programs for trafficked children

- [142]. The research team has not been able to identify the establishment of specialised integration programmes for trafficked.

F.6. Taking into consideration special needs of children from different background and of children with disabilities

- [143]. The research team has not been able to identify information to evidence that special needs for children coming from different ethnic backgrounds, needs of children with disabilities have been taken into consideration in all relevant contexts and legal procedures.

G. Prosecution

G.1. Legal provisions for child-sensitive procedures

- [144]. A joint action to support victims of human trafficking started in April 2003 with the aim to give victims support, safety, and to educate people in charge of the matter and secure that the individuals needs is being seen to. Another aim was to make the exercise in authority concerning human trafficking more efficient and make the roles between different authorities clear.⁵⁴
- [145]. General guidelines that affect National Police, Migration office, Social Services and the regional public prosecution office to cooperate in the best way possible. The guidelines identify that victims of human trafficking can be women and children and that they all have different needs and presumptions and consideration must be taken to the specific situation in each case. Children under 18 years have certain needs that should be taken into consideration in the light of the best interests of the child. All authorities should also find routines to keep statistics of cases concerning human trafficking.⁵⁵
- [146]. In the joint action, one aim is to make the cooperation and sharing of information more efficient between authorities. However, with respect and consideration to each victim certain needs, such as name or picture shall never be explored to media.
- [147]. If there is a suspicion that a child is being abused in human trafficking a report should be made to the police and social services immediately.
- [148]. Treatment programs for victims and perpetrators have been developed through the Norrtälje Prison as well as Children's Houses.⁵⁶

⁵⁴ Samverkansplan för stöd till utsatta för människohandel, Region Stockholm, mars 2004

⁵⁵ Samverkansplan för stöd till utsatta för människohandel, Region Stockholm, mars 2004, p. 8

⁵⁶ Swedish Government. *Information from the Swedish Government on Measures to Eliminate Men's Violence against Women including Sweden's Efforts to Combat Prostitution and Trafficking in Human*

G.2. Final convictions based on child trafficking cases

- [149]. Sweden is seldom viewed as a country where children are victimized through commercial sexual exploitation, but a number of studies have indicated that both girls and boys are exploited through prostitution, pornography and trafficking for sexual purposes. However, Sweden is not solely the country of destination but functions as a transit country and sometimes as a destination country for trafficking (these two are not exclusive since many trafficking victims are on the move the whole time and exploited during transit). There are no figures on how many women and children are the subject of trafficking for sexual purposes in Sweden each year.
- [150]. According to National Police the number of persons identified in Sweden who are victims of trafficking, largely depend on the resources of the various police forces put down on the detection of this crime.⁵⁷ The number of operations varies greatly from province to province and from year to year. In the cases resulted in convictions in Sweden in 2006, the perpetrators mainly recruited women and girls from Estonia, Russia, Slovakia, Romania, Bulgaria and Albania in order to exploit them for sexual purposes in Sweden. But there was also recruitment from Thailand, Poland, Nigeria, Kenya and the Czech Republic.
- [151]. There is also information saying that women and girls from Latvia and Ukraine have been recruited to Sweden to work in prostitution. The women and girls were aged 16-35 years. The men and single women who were convicted in 2006 of trafficking in Sweden came originally from Estonia, Russia, Slovakia, Bosnia and Herzegovina, Serbia and Montenegro, Macedonia, Romania, Syria and Sweden. Some of the perpetrators had lived in Sweden for a long time or had his residence here, while others had no links with the country.⁵⁸
- [152]. Trafficking in human beings is to a large extent considered to include other crimes/offences, such as procuring and grave

Beings. Accessed on 13 March 2006 from:
<http://www.ohchr.org/english/issues/women/rapporteur/Sweden.doc>.

⁵⁷ Source

http://www.polisen.se/mediaarchive/4347/3474/4637/Manniskohandel_Lagesrapport_%209_rkp.pdf

⁵⁸ Skr. 2007/08:167, p 5

procuring. The Swedish National Police annually presents a report, published on their website, where they summarise the human trafficking situation in Sweden⁵⁹. In 2004, Swedish National Police started to collect information about trafficking in children for sexual purposes. There is little information to collect. According to their findings, there were no children below the age of 12 in cases concerning trafficking during 2006. Swedish National Police noticed a small increase in trafficking in children for other reasons than sexual purposes, such as burglary and thefts. The children were usually from Bulgaria and Rumania. The police says that the children can also be victims of sexual abuse in these cases. According to Swedish National Police, 400-600 children and women are trafficked to Sweden every year⁶⁰.

[153]. The Swedish National Police is unwilling to estimate how many children and women that are being trafficked to Sweden today. It is difficult to estimate, since it depends on resources and possibilities to investigate the crime. It has also become difficult to estimate because of the open borders within EU. Usually it takes long time to investigate human trafficking and the police do not prioritise the crime. The Swedish National Police estimates that approximately 1500 people work in the prostitution business in Sweden today. Compared to other Nordic countries (Denmark, Norway and Finland), where the numbers are 5000 - 15000 per country and year, it seems that the Swedish prostitution law has had preventive effects..

[154]. In the latest progress report, which relates to 2006, National Police stated that 37 police reports were established on trafficking in persons, including 26 for sexual purposes and eleven for other purposes. During the current year eleven persons were convicted of trafficking for sexual purposes. The judges involved in several cases, other crimes that are typically judged to be in organised crime such as drug offences and human trafficking.

59

http://www.polisen.se/mediaarchive/4347/3474/4637/Manniskohandel_Lagesrapport_%209_rkp.pdf accessed on 081808

⁶⁰ The Swedish National Police, Report on human trafficking in sexual purposes, 2004

G.3. Legal provisions granting trafficked children access to justice, including right to compensation

- [155]. Brottsoffermyndigheten, BrOM, (The Criminal Victim Compensation and support Authority), is responsible for assessing state compensation, administering the Fund for Victims of Crime and acting as an expert centre. The assignments of BrOM is yearly regulated by the Ministry of Justice, in the regulation letter.:
- [156]. In assessing compensation, the personnel at the Crime Victim Compensation and Support Authority is not bound by a court decision on damages. The authority has an important role in setting a good example, since there are relatively few cases concerning damages for crime victims adjudicated in the Supreme Court. Decisions on criminal injuries compensation by the Crime Victim Compensation and Support Authority cannot be appealed, but they may be reviewed, either by the civil servant, who was first in charge of the matter, by another civil servant, by the director-general, or by the Board. The authority is supervised by the Parliamentary Ombudsman, which ensures that all government officials observe proper application of the law. It is also possible to claim damages from the perpetrator in a criminal trial. You can get help with the recovery of damages by the bailiff.⁶¹

G.4. Total amount, average amount and range of amounts of compensation paid to trafficked children, per year (2000--2007)

- [157]. The Criminal Victim Compensation and support Authority provides a collection of summaries concerning trafficking when compensation for violation has been imposed. These crimes,

⁶¹ The Criminal Victim Compensation and support Authority <http://www.brottsoffermyndigheten.se/default.asp?id=1345> website accessed on June 23rd 2008

which can include the crimes of trafficking, pimping and aggravated pandering, sexual coercion and other sexual offences, kidnapping, illegal detention and others, represents a group of crime for which not much case-law exists. The legal situation is unclear because the crimes are so multifaceted.

- [158]. A seventeen year-old girl was persuaded by a woman to travel to Sweden from Denmark. The woman intended to use the girl for prostitution. A man transported the girl to a city in Sweden and to the various streets where prostitution took place. The girl was forced to prostitute herself for three days. The woman who had arranged the transportation from Denmark, was responsible for customer contact and supervised her work on the street, provided her with drugs, and acquired, a part of the payments for the sexual services. The girl's passport, money and mobile phone were deprived. The District Court convicted the woman of trafficking for sexual purposes and aggravated pimping and ordered her to pay damages to the girl with SEK 100 000 for the violation. The man was convicted of trafficking for sexual purposes and ordered to pay damages to the girl with SEK 50 000 solidarity with the woman. The Court of Appeal, did not change the judgment of liability and ordered the man to pay damages to the girl with a total claimed SEK 100 000 for violations, of which SEK 50 000 solidarity with the woman.
- [159]. The Criminal Victim Compensation and support Authority found that the courts imposed compensation for the violation was at a high level. At an assessment of all the circumstances surrounding the crime The Criminal Victim Compensation and support Authority found that the girl was entitled to compensation for violation with SEK 75 000. Reg No 1701/05⁶²
- [160]. A girl, who was 17 years old lived in Russia under severe economic conditions. She thought he was going to get a job as a cleaner, and went from Latvia to Sweden with the help of several unknown men. In Latvia, she met a man who later transported her to Sweden. In Sweden the girl was taken against her will to an apartment that she was not allowed to leave. After a week's time, she managed to escape. A few months later she met one of the perpetrators by chance in a train, and he brought her back to the apartment. During a period of approximately two weeks she was forced to have daily oral intercourse with an unknown man as well as with one of the perpetrators. She was then moved to another apartment where she had about 4-5 customers a day

⁶² The Criminal Victim Compensation and support Authority:
<http://www.brottsoffermyndigheten.se/default.asp?id=2080> accessed on 081808

during a period of two weeks. The Court of Appeal sentenced two men X and Y for aggravated pimping and Y, was sentenced in addition to kidnapping and aggravated sexual coercion. Y was ordered to pay damages to the girl with SEK 200 000 for the violation of which SEK 75 000 solidarity with X. The Criminal Victim Compensation and support Authority found reasonable to determine the compensation of violation to SEK 125 000. Reg No 11627/04⁶³

⁶³The Criminal Victim Compensation and support Authority
<http://www.brottsoffermyndigheten.se/default.asp?id=2080> accessed on 081808

H. Miscellaneous

- [161]. Since there are few cases of judgements of trafficking in general and in particular regarding child trafficking, one cannot talk about a good practice in general. The judgments of the courts vary. There is in particular one child trafficking case from the district court of Stockholm in 2006, which was highlighted in the Swedish National Police yearly report on trafficking in human beings 2006. The court considered the fact that the victims was below 18-years old not in it self could prove that the criterion on control as stated in the provision of trafficking in the Penal code had been reached. The provision states that improper means does not need to be proved when it comes to children, since only being a child should always be deemed to have abused the child's defencelessness. The court applied the rule of improper means in away that is against the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography as well as the preparation of the law and consequently deprived the child from its fundamental rights.

H.1. Supreme Court

*Högsta Domstolen, 2004-11-22, B 3863-04*⁶⁴

- [162]. There is no case regarding trafficking from the Supreme Curt. There is however one case from the Supreme Court regarding procurement. In that case, the Supreme Court lowered the sentence from gross procurement to procurement. The Supreme Court reasoned that two customers a day could not be considered "a great extent" and considered to be severe in the context.

⁶⁴ http://www.dom.se/Domstolar/hogstadamstolen/Avgoranden/2004/2004-11-22_B_3863-04_dom.pdf

H.2. Court of Appeal

Hovrätten för Västra Sverige 2005-07-06, B 2557-05

- [163]. In one case from 2005, three men were convicted for trafficking of a 17-year-old girl from Kosovo. According to the victim, she had known one of the perpetrators for 3-4 years. During a period in Kosovo he had forced her to have sexual intercourse with him and other men. She was locked in an apartment in Pristina and was raped daily. She was beat up if she refused to have sex. Another man (accused 1) took her by car to Sweden. He had been ordered to kill her if she tried to do something. In Sweden, she was forced to have sex with three men at different occasions. The contact was made through phone calls and text messages and the men usually paid 2000 SEK for one hour. She was instructed to say that her name was Valentina and that she was 20 years old. The deal was made in a parking spot and she never received any money. However, she once saw one man giving money to one of the perpetrators. It must have been obvious to the sex buyers that the sex was not voluntary, since they had to force the clothes off her. One man also asked her to take drugs and alcohol so she could not resist his abuse, because she felt weak. When she was not locked in the apartment, the men (accused 2 and 3) took her by car to meet the different men. Several times she was threatened to be killed if she escaped or did something wrong. The girl finally managed to escape from one of the sex buyers and contacted the police.
- [164]. The Court of Appeal said that the plaintiff's statement gave an impression of being self-experienced and was reliable and spontaneous. The victim had given trustworthy explanations why she did not tell the truth in the district court. The court found that the testimonies of the charged people were not only incompatible with each other but also in themselves. The written evidence, such as passport, information about travels and phone calls also supported the testimony of the plaintiff. Extract from telephone lists, showed an extensive contact between the men. The court did not believe in the explanations that the cell phones had been borrowed by someone else, when the plaintiff's statement very well explained the phone calls. With all circumstances put together it was clear to the Court of Appeal that the girl had been trafficked to Sweden by accused 1 and that accused 2 and 3 afterwards had taken control over her with the purpose to use her in sexual relations. The court found that it was without doubt that two men (one admitted that he bought sexual services) had sexual

relations with the girl for economic compensation, and that one man tried to have a sexual relation with a promise of compensation.

[165]. Accused 1

One man, a Swedish citizen from former Yugoslavia, was sentenced for human trafficking to 3 years in prison. He denied that he had been involved in trafficking the girl to Sweden. However, he failed in explaining why he explain possessed app. 40 000 SEK (when he at the same time lived on social pension).

[166]. Accused 2

The second man, from Serbia-Montenegro, was sentenced for human trafficking, rape and theft and possession of a knife, and received 5 years in prison and deportation.

According to his statement in court, he never forced the girl to have sex with him, and she said things in order to get a residence permit and money. He also claimed that she said that she was 20 years old. (The Court of Approval stated that it must have been clear to him that the girl was under 18 since it is clear that they both knew each other from Kosovo. In the District Court Selman denied that he knew the person who had taken the girl from Kosovo to Sweden and then changed his story in the Court of Appeal.)

[167]. Accused 3

Since the court could not find enough evidence that the third man was aware about that the girl had been trafficked from Serbia-Montenegro, he received 1 year in prison for aggravated procuring. He also was deported for life. As an argument for deportation the fact that he had relapsed in serious criminal activities during the trial period after an unconditional sentence was used.

[168]. In the same case, three men were sentenced with fines for purchase of sexual service;

- a. Sex buyer 1. 200 fines of 120 SEK for purchase of sexual service in addition with narcotics crime.
- b. Sex buyer 2. Unconditional sentence in connection with 80 fines of 400 SEK for an attempt to purchase sexual service.
- c. Sex buyer 3. 80 fines of 150 SEK for purchase of sexual service.

- [169]. What is remarkable with this case is that the prosecutor did not charge with the crime under Penal Code, Chapter 6 section 9 which stipulates that a person who induces a child under eighteen years of age to undertake or endure a sexual act in return for payment shall be sentenced with the crime purchase of a sexual act from a child to a fine or imprisonment for at the most two years.
- [170]. With the “new” legislation on sexual crimes against children no violence or threats against the child are needed in order to prove guilt. Since the crime purchase of a sexual act from a child is subsidiary to other crimes under the Penal Code, Chapter 6, many of the actions in this section as with purchase of sexual acts, would probably be consumed by a more severe crime such as rape or sexual assault.
- [171]. However, the prosecutor needs to prove that the person who has purchase a sexual act from a child was aware of that he or she was under 18 years of age. Usually, trafficked children are instructed to say that they are older than they are. A more severe penalty can follow on crimes towards children than adults and the maximum penalty for this crime has been increased from six-months imprisonment to two-years imprisonment. This means that the penal value is greater for an act directed against a child than an adult. However, the court still seems reluctant to give punishments more severe than fines, a problem that might concern the lack of evidence but probably also attitudes towards the crime. Still, it is incredible to think that this section would ever be used and to accept that sex with children can ever be seen as something else than sexual abuse.

H.3. District Court in Gothenburg 2006

Purchase of a sexual act from a child

- [172]. A man was, among other crimes, charged with the crime “purchase of a sexual act from a child” and “attempt to purchase a sexual act from a child”, since he had sold alcohol to several young girls and asked them to pay with sexual services. The man was sentenced with a 1-year and 6 months imprisonment. Condoms and some kind of sex spray were found in the van where the accused held the alcohol. According to the girl’s statement, he had asked them to have sexual intercourse and other sexual acts. Some of the girls had felt forced to help him

masturbate. According to the court it was demonstrated that the perpetrator had offered and, in some cases, also given compensation such as money and alcohol in order for them to commit sexual acts. Regarding some attempts, it was at risk that the crimes would be accomplished. Accordingly, the man was also sentenced for the attempt to purchase sexual acts from a child. In this case the prosecutor had moved that the man should be sentenced with an attempt to rape a child. It was made clear that the accused was aware of that the girls were under the age of 15. The court found that the plaintiffs statement were spontaneous and trustworthy. The girls did not seem older than they were in their appearance or expression. The accused man had a daughter in the same age as the girls and this indicates that he should have reasonable cause to understand that the girls were younger than 15. Regarding this crime, the court stated that only a wish or intent to have sex with a child can not make a person responsible.

[173]. In 2002, the Swedish Court of Appeal heard a criminal case where six men had been charged with exploiting at least four refugee children for several years. One of the men had come into contact with the boys when he worked at a special unit for refugees. He then procured the boys for the other men. The lead procurer was sentenced to five years' imprisonment, while the other five men were given jail sentences ranging from 2 months to 4 years.⁶⁵

⁶⁵ ECPAT Sweden. *NGO Monitoring*. p.4. Accessed on 10 October 2005 from: <http://www.ecpat.se/upl/files/70.pdf>.

Annex 1 - Tables and Statistics

	2000	2001	2002	2003	2004	2005	2006	2007
Number of children being granted temporary stay on grounds of trafficking ⁶⁶	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Number of trafficked children receiving full health care services, including psychosocial care and rehabilitation (e.g. not just emergency treatment)	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Number of trafficked children receiving education/training, in particular secondary education and vocational training	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Number of trafficked children receiving legal assistance (e.g. for claiming compensation)	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

⁶⁶ According to the government report “Trafficking in human beings- child marriage – a strengthen criminal law protection”, p. 137, 58 applications for temporary stay have been granted. How many of these applications that refer to trafficking, has not been able to clarify.

Number of final convictions based on child trafficking cases, per year	0	0	0	1	0	6	1	167
Total of amount of compensation paid to trafficked children, per year	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Average of amounts of compensation paid to trafficked children, per year	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Range of amount of compensation paid to trafficked children, per year	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

⁶⁷ Only one verdict confirmed, there may be more child trafficking cases. Information has not been found

Annex 2 – Extract government report

Extract Trafficking in human beings and child-marriage – a strengthened protection in criminal law, SOU 2008:41⁶⁸ - provisions on trafficking in human beings in general

The provision on trafficking in human beings, which is contained in chapter 4, Section 1 a of the Penal Code, is currently worded in a way that may impede it from being implemented in an effective way. This manifests itself in, among other things, the fact that conduct involving trafficking in human beings is to a large extent considered to comprise other offences, such as procuring and grave procuring according to Chapter 6, Section 12 of the Penal Code. The penal provision contained in Chapter 4, Section 1 a of the Penal Code should therefore be afforded a new wording, clearly specifying the conduct that is to be criminalized as trafficking in human beings. However, the provision contained in Chapter 4, Section 1 a of the Penal Code should also in the future be worded in accordance with the internationally acceptable definition of 'trafficking in human beings'.

The offence of trafficking in human beings shall contain requisites that clarify the fact that the offence involves a violation of personal integrity, which is currently indicated through a requirement being imposed on the perpetrator having made use of improper means. This requirement shall be retained.

The requisites that describe the improper means shall be given a somewhat clearer and more readily understood meaning than they have at present. It will consequently be stated that anyone who makes use of unlawful coercion or deception, abuses someone's vulnerable situation, abuses someone's youth or defenselessness, or abuses someone's dependent status, has used such a means that may result in liability for trafficking in human beings.

The current list of the kinds of acts of trafficking covered shall be supplemented by the possibility of a person, who by some improper means controls another in order to exploit her or him, being penalised for trafficking in human beings. In the current provision, a requirement is imposed that the perpetrator assumes control of the victim by using improper means and implementing one of the kinds of acts of trafficking covered. The requirement contained in Chapter 4, Section 1 a, first paragraph of the Penal Code that the perpetrator is to have assumed control of the victim has, in some cases, led to the provision being

⁶⁸ Trafficking in human beings and child marriage, a strengthened protection in the criminal law, SOU 2008:41, <http://www.regeringen.se/content/1/c6/10/35/17/9355e9b2.pdf>, page 21-27
Some parts are left out.

applied in a way that is ineffective. This requirement should consequently be removed.

As regards the elements concerning the aim of the exploitation, the current subjective requisite "with the aim that" should be removed and replaced with "with the intention of". In the future, it shall consequently no longer be necessary for the perpetrator to have had the direct aim of exploiting the victim in order for the act to be punishable. It will instead be deemed sufficient for the perpetrator to have acted with indirect intent or with intention through indifference.

Chapter 4, Section 1 a, second paragraph of the Penal Code penalises the passing over or receiving control of a person as trafficking in human beings. As a consequence of the changes to Chapter 4, Section 1 a, first paragraph of the Penal Code proposed, the situations referred to in the current second paragraph of Chapter 4, Section 1 a of the Penal Code will be covered by the first paragraph of the provision. The current second paragraph of Chapter 4, Section 1 a of the Penal Code shall therefore be removed.

Certain conduct involving trafficking in human beings begins with the disbursement or receipt of payment for the victim, though without using any of the means referred to in the statutory provision. In order to be able to establish a comprehensive regulation of all of the steps that conduct involving trafficking in human beings may entail, such transactions should also be punished as trafficking in human beings. A provision that clarifies the criminalization of commercial transactions of this nature should therefore be introduced into Chapter 4, Section 1 a, second paragraph of the Penal Code.

Extract regarding trafficking in human beings with a child on child trafficking, chapter 4, section 1a, third paragraph⁶⁹

For criminal liability to be incurred for trafficking in human beings with a child (that is to say, a victim under the age of 18) the perpetrator is required to have implemented an act of trafficking by improper means with the intent that the victim should be exploited for one of the purposes referred to in the list contained in the provision. In order to clarify the vulnerable position of the child, it should be indicated by Chapter 4, Section 1 a, third paragraph of the Penal Code that anyone committing an act as referred to in the first paragraph of the provision against a child should always be deemed to have abused the child's defenselessness. In practice, the provisions of Chapter 4, Section 1 a, third paragraph of the Penal Code, viewed together with our present proposal that the requisite regarding control contained in Chapter 4, Section 1, first paragraph of the Penal Code be removed, mean that no requirement is imposed for the perpetrator to have used improper

⁶⁹ Heading of the author of this report

means if the victim of the trafficking in human beings is under the age of 18.

It is consequently clear that the consent of the victim is irrelevant to criminal liability. We therefore consider that there is no reason to introduce a provision into Chapter 4, Section 1 a of the Penal Code about the consent of the victim to the exploitation being irrelevant to criminal liability.

The proposed amendment to Chapter 4, Section 1 a, first paragraph of the Penal Code means that the point of completion of the offence is brought forward in time.

The penalty for trafficking in human beings should also continue to be imprisonment for at least two and at most ten years. The milder range of penalty contained in the provision should also be retained