

A dark, moody photograph showing the silhouette of a child standing behind vertical metal bars. The child is looking towards the camera. The background is out of focus, showing what appears to be an indoor setting with some furniture or equipment.

# **HUMAN TRAFFICKING**

*- A CHILD JUSTICE PERSPECTIVE*



**HUMAN RIGHTS  
LAWYERS**



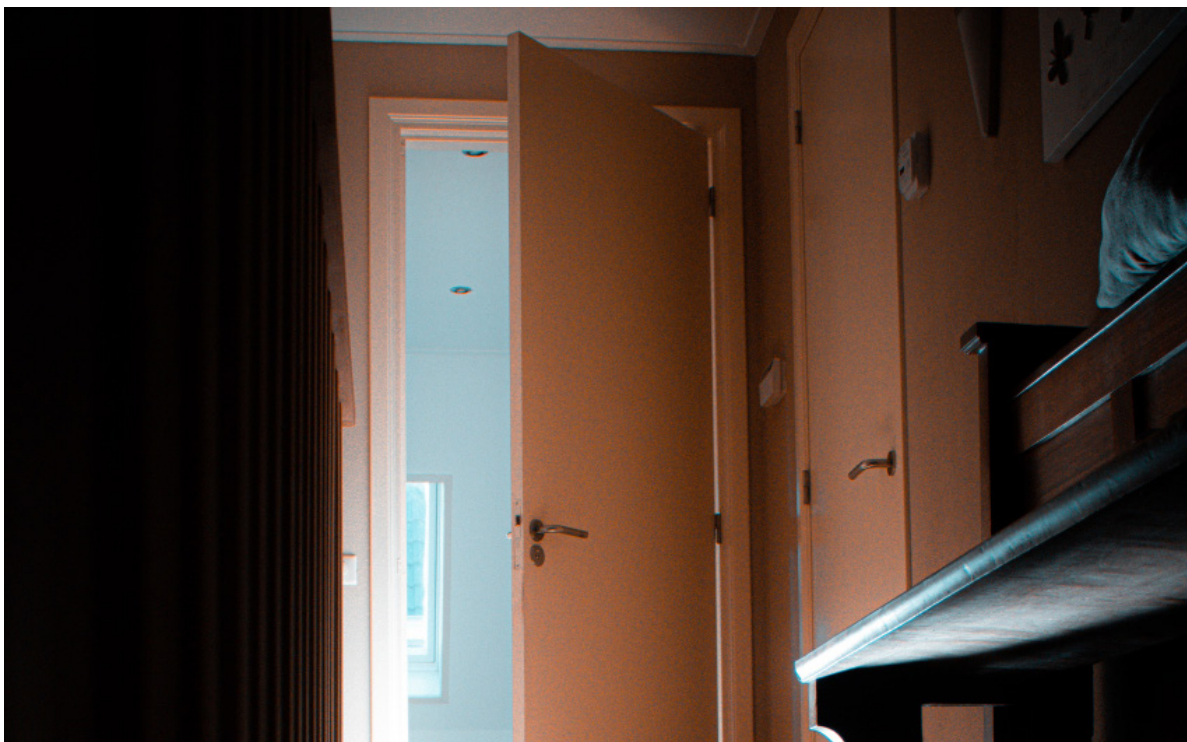


Foto: Sebastiaan Stam

Scandinavian Human Rights Lawyers is a law firm that works to promote human rights and freedoms in Scandinavia and Europe. The agency's specialization and expertise lie in human rights law and the agency is often involved in cases involving human rights.



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# INTRO- DUCTION

Trafficking in human beings is a crime against human rights and a violation of human dignity and integrity. The UN agency *UNICEF* estimates that as many as 1.2 million children are trafficked every year.<sup>1</sup> According to the European Commission, travelling and unaccompanied asylum seeking children have a high risk of trafficking and exploitation in Sweden. Between 2013–2016, there were indications that over 1,500 unaccompanied children disappeared in the country, and that most children are probably from countries of origin such as Afghanistan, Syria and Iraq.<sup>2</sup> According to the *Swedish Gender Equality Authority's* report on children in human trafficking 2018, 57 of 262 reported human trafficking cases involved children, and 18 cases were unaccompanied children.<sup>3</sup> According to the European Commission, it is likely that human trafficking in children in Sweden is greater than what the statistics show, because many crime victims are not known by the authorities.<sup>4</sup> Since the start of the COVID-19 pandemic, the UN agency *UNODC* has drawn special attention to the rising number of victims of human trafficking and the fact that children are increasingly affected.<sup>5</sup>

The primary rights documents for strengthening children's rights within this field is the *UN Convention on the Rights of the Child*, which was signed by Sweden and ratified in 1990 (it became Swedish law in 2020) and the *Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography*.

The central rights document to strengthen the protection of victims of trafficking in Europe, is the *Council of Europe Convention on Action against Trafficking in Human Beings*. The Convention

clarified that trafficking in human beings is a violation of human rights and a violation of human dignity and integrity and that respect for the rights of crime victims, protection of crime victims, and measures to combat trafficking in human beings must be overarching goals. Furthermore, the rights of the child must be respected.

The *Scandinavian Human Rights Lawyers* have been Swedish experts in several EU projects against trafficking and consistently represent victims of human trafficking in legal proceedings – thereby drawing attention to shortcomings and gaps in the legislation which entail that human trafficking victims are not guaranteed the rights they deserve according to international conventions. Some of these noted shortcomings have been communicated to the *Council of Europe's Group of Experts on Action against Trafficking in Human Beings*, GRETA, which in 2014 and 2018 reported on how Sweden complies with the Council of Europe Convention on Combating Trafficking in Human Beings.

The latest GRETA report, from 2018, shows that Sweden fails in several aspects, specifically regarding human trafficking of children and asylum seeking victims of human trafficking. It is noted, among other things, that there is a lack of knowledge within professions who encounter victims of human trafficking, and not enough measures are taken to reduce children's exposure to human trafficking.

This report will focus on how legal protection according to the international conventions, especially the Council of Europe Convention, works in practice in Sweden. Is the Council of Europe Convention being complied with or is Sweden violating international obligations? The introductory chapter presents a Swedish child rights perspective on child trafficking by the child rights expert, S.J.D. and LL.M. Maria Grahn Farley and thereafter presents the results of in-depth interviews with representatives of authorities, civil society, sheltered housing and other actors working against human trafficking. This qualitative survey provides an insight into how well Sweden fulfills its obligations under the Council of Europe Convention against Trafficking in Human Beings, with a special focus on children's rights.

*The Report authors  
Uppsala, October 2021*

- 1 UNICEF, Human trafficking is a form of slavery, 2020, <https://unicef.se/fakta/handel-med-barn> [2021-10-11]
- 2 European Commission - Together Against Trafficking in Human Beings, 2018. [https://ec.europa.eu/anti-trafficking/member-states/sweden\\_en](https://ec.europa.eu/anti-trafficking/member-states/sweden_en) [Retrieved 2021-10-11]
- 3 Swedish Gender Equality Agency, Barn i människohandel: Slutredovisning av regeringsuppdraget att samordna arbetet mot människohandel och exploatering av barn 19:6, 2019. (Göteborg: Swedish Gender Equality Agency, 2019)
- 4 European commission, Together Against Trafficking in Human Beings, 2018. [https://ec.europa.eu/anti-trafficking/member-states/sweden\\_en](https://ec.europa.eu/anti-trafficking/member-states/sweden_en) [Retrieved 2021-10-11]
- 5 UNODC (United Nations Office on Drugs and Crime), *Global Report on Trafficking in Persons*, 2021 [Retrieved 2021-10-11]

# **A SWEDISH CHILD RIGHTS PERSPECTIVE ON CHILD TRAFFICKING**

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*The incorporation of the UN Convention on the Rights of the Child (CRC)<sup>7</sup> and its Optional Protocol on the sale of children, child prostitution and child pornography (OP sales of children)<sup>8</sup> into Swedish national law is a potential game changer when it comes to fighting child trafficking.<sup>9</sup> The CRC is the most ratified human rights treaty in the world; all nations, with the exception of the USA, are part of this treaty. It's this incorporation, this new national legal instrument, that will be the focus of this text.*



Foto: Krisztian Tabori

## THE SWEDISH LEGISLATIVE HISTORY

The incorporation of the CRC and two of its three Optional Protocols<sup>10</sup> (Sweden has not ratified the individual communication procedures)<sup>11</sup> into national law means that the OP sales of children is directly applicable in Swedish legal and administrative procedures. Depending on the particular article, the specific provision might also be justiciable in Swedish courts and administrative proceedings on all levels. Sweden has signed but not ratified the *European Convention on the Exercise of Children's Rights*, which has some consequences when it comes to the implementation of the CRC in legal proceedings.<sup>12</sup>

- 7 UN Convention on the Rights of the Child, G.A. Res. 44/25, 20 Nov 1989, entry into force 2 Sep. 1990. Sweden signed 1990, and ratified 1990. Prop. 1989/90:107. SÖ 1996:31.
- 8 Optional Protocol to the Convention on the Rights of the Child on the sale of children, Child prostitution and child pornography, Ga. Res. 54/263, Adopted 25 May 2000, entered into force 18 Jan 2002. Sweden signed 2000 and ratified the treaty 2007, Prop. 2005/06:68. SÖ 2007:7.
- 9 SFS (2018:1997); Prop. 2017/18:186; SOU 2016:19.
- 10 Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, Ga. Res. 54/263, adopted 25 May 2000, entered into force 12 Feb. 2002. Sweden signed 2000 and ratified 2003. Prop. 2001/02:178. SÖ 2003:13.
- 11 Optional Protocol to the Convention on the Rights of the Child on a communication procedure, Ga. Res. 66/457, Adopted 19 Dec. 2011, entered into force April 2014. Sweden has neither signed or ratified the treaty.
- 12 The European Convention on the Exercise of Children's Rights, Ref ETS No. 160, Strasbourg, 25/01/1996. Entered into force 01/07/2000. Sweden signed 25/01/1996 and as still to ratify the treaty. There are in total 20 States parties to the treaty as of 28/05/2021. Article 6 of the European Convention states that:

"In proceedings affecting a child, the judicial authority, before taking a decision, shall: a) consider whether it has sufficient information at its disposal in order to take a decision in the best interests of the child and, where necessary."

## THE POWER TO INTERPRET THE CRC AND THE OP ON SALES OF CHILDREN

In addition, the incorporation means that every public entity in Sweden is by law obligated to apply and interpret the three incorporated treaties in their regular administration of public services. The incorporation of the child rights treaty and its protocols has opened up a possibility for every child within Swedish jurisdiction to claim an individual treaty based right against the state. In Sweden the incorporation obliges every single public servant to interpret and apply the treaty in every decision concerning any child or adult when the treatment affects a child. The treaty interpretation is not limited to the national parliament as the legislator, or to the highest courts to interpret the meaning of the three treaties, instead this obligation to interpret the treaties is placed on each and every public servant, trained or not trained in law to make, with regards to every situation concerning a child.

Sweden takes a dualist approach to international law. This has traditionally been done through transformation of international human rights treaties. Incorporation as a method has only been used one time before when it comes to multilateral human rights treaties. Differently from the only previously incorporated human rights treaty, the European Convention on Human Rights, the government opted to leave the authority to interpret the CRC on every civil servant within the public sector.<sup>13</sup>

When it comes to the ECHR the power to interpret the convention is limited, first to the national parliament as the legislator and secondly to the two highest courts: the Supreme Court and the Supreme Administrative Court, and ultimately to the European Court of Human Rights (ECHR).<sup>14</sup> Not only does the CRC for obvious reasons not have a human rights court, but the power to interpret the CRC and its OP:s is as already mentioned not limited to the national parliament through legislation or the two courts, the Supreme Court and the Supreme Administrative Court. Instead the power and the obligation to interpret the CRC and its OP:s is placed on every civil servant without limitation, not even necessarily legally trained.

One must await a ruling from either the Supreme Court or the Supreme Administrative Court for the final word on the extent of the power to interpret the CRC among civil servants across the lower authorities. Yet another difference between the power to interpret the CRC and the ECHR is that the ECHR while interpreted by the Supreme Court and the Supreme Administrative Court is to be interpreted in accordance with Swedish legal municipal doctrines,<sup>15</sup> while the CRC is to be interpreted in accordance with international law and the *Vienna Convention on the Law of Treaties*.<sup>16</sup> It is a tall order placed on a not even legally trained public servant to interpret a law in accordance with international legal principles and the *Vienna Convention on the Law of Treaties*.<sup>17</sup> For a final word on doctrines of interpretation we will also have to wait for the Supreme Court or the Supreme Administrative Court to provide a ruling.



13 *Guidance on interpretation and application of the UN Convention on the Rights of the Child, Ds 2019:23.*

14 *Incorporering av Europa konventionen och andra fri-och rättighetsfrågor*, Prop. 1993/94:117, p. 38 (establishing that the ongoing interpretation of the treaty rests on the legislator). Where there is a conflict between nationally originated legislation and the ECHR the method of treaty conformity will be applied by the Courts and the lower authorities. pp. 32. The Supreme Court established that it is primarily for the Supreme Court to determine the interpretation of the ECHR within the Swedish legal regime. NJA 2012 3. 211, p. 19; NJA 2012 s. 1038, p. 15.

15 *Guidance on interpretation and application of the UN Convention on the Rights of the Child, Ds 2019:23.*

17 The *Vienna Convention on the Law of Treaties*, adopted 23 May 1969, entered into force 27 Jan. 1980.



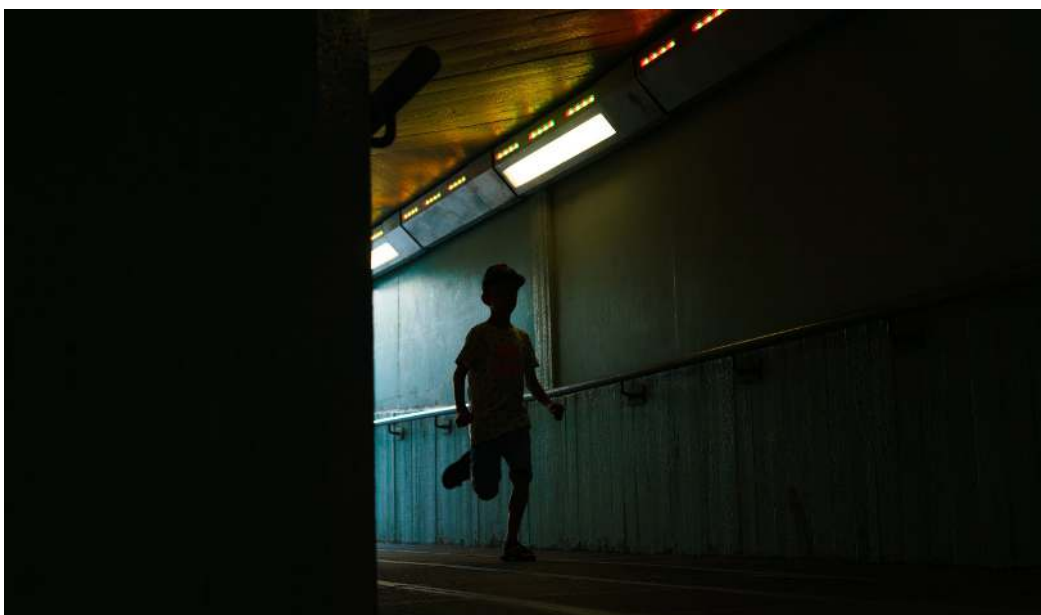


Foto: Rene Bohmer

## SWEDISH JUDICIAL REVIEW

The Swedish constitution requires each public servant with the same authority as the Court, in accordance with Chapter 12 section 10 of *regeringsformen* (Instrument of the Government), to conduct a judicial review regarding every law's and administrative regulation's coherence with the CRC and the OP sales of children. The constitution makes no limitations on the scope of judicial review that non-legally trained public servants are authorized to do, instead it obligates each and every person in the public sector to make an individual judicial review at each decision made with the identical authority of the Courts, as established in Chapter 11 section 14 codifying the judicial review power of the Courts. This is contrasted by other countries, such as Finland, where there is a distinction between the power of the Courts and the power of the lower authorities to perform judicial review; the Courts in Finland are to review the Constitution and the law while the lower authorities are to review regulations and lower instructions.<sup>18</sup> The Swedish constitution, thus, grants the Court and the lower authorities an equal power to review the Constitution, the law and regulations.

As the constitution does not distinguish between a legally trained and non-legally trained public servant to make the judicial review regarding the treaty conformity with the CRC and its OP:s of any and all laws, regulations, and principles this task is to be performed at each turn of decision making when it comes to children subjected to commercial sexual exploitation and trafficking.

## THE GENERAL PRINCIPLES CONSTITUTING A CHILD RIGHTS PERSPECTIVE

A child rights perspective carries with it a specific method. The idea is that "right" is to signal that the child has a full subject of rights and is not merely an object of care. Furthermore, the perspective is to mean that the adults try to understand the situation from the child's point of view, in COMBINATION with the child's full subjecthood as a holder of individual rights. It is not a question of taking the place of the child, or to "walk in their shoes" – it is to take their point of view and to preserve the full subjecthood of the child established through being a holder of rights. A child rights perspective, and not only a child perspective has a strong tradition within the Swedish legal and social tradition of child rights.

There are two main provisions and well recognized child rights principles, and one important universal principle for the method of a child rights perspective. The two provisions are the best interest of the child and the right to be heard, resting on the baring principle of non-discrimination. These particular objective elements are the establishment of the best interest of the child, combined with the individual subjective element of the opinion of the child to be understood in the light of the general principal of non-discrimination, the universal idea of every human being's equal value.

18 The Finish Constitution §§ 106, 107.

## THE BEST INTEREST OF THE CHILD

### Article 3(1)

In all actions concerning children, whether undertaken (...) by courts of law, administrative authorities (...) the best interests of the child shall be a primary consideration.

From the wording of the Article it is evident that the child's best interests shall be a primary consideration in all actions concerning children – whether by courts or administrative authorities. This entails that the child has been designated as a rights holder when there is a vested interest in a decision concerning the child – made by courts or public authorities – even when the child is not the direct party in the decision at hand. Furthermore, the court or the public authority is to have determined what is the best interest of the child in advance of the decision being made. This follows the wording of the text but is further clarified by *The European Convention on the Exercise of Children's Rights*, Article 6. There it is stipulated that the judicial shall be assured that there is sufficient information regarding what is in the best interest of the child, BEFORE making the decision, for the Court to rule on a case. The indecisive form of "a" signifies that the best interest of the child must constitute one part of the decision making, but does not have to determine the final ruling. There are places in the CRC where the convention uses the decisive form of "the" and leaves no room for other outcomes than what is in the best interest of the child.

## THE RIGHT TO BE HEARD

### Article 12

- States Parties shall assure that the child, who is capable of forming his or her own views, has the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.
- For this purpose, the child shall in particular be given the **opportunity to be heard** in any judicial and administrative proceedings affecting the child, **either directly, or through a representative or an appropriate body**, in a manner consistent with the procedural rules of national law

The child's right to be heard is a "right" and not an obligation. This means that this is to be done only when it is both in the best interest and there are structural opportunities for the child that wishes to be heard. The right to be heard is not only to be understood as an opportunity to be heard, but it is also the responsibility of the court or the public authority, in line with the best interest provision, to find the appropriate method for finding out the opinion of the child. This can be done either directly by the child that wishes to be heard, or through a representative, as established in section 2 of Article 12.

## THE NON-DISCRIMINATION PRINCIPLE

### Article 2

1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, **nationality**, ethnic or social origin, property, disability, birth or other status.

One protected category under the non-discrimination principle is "nationality" this means that as soon as the CRC is applied in a case, no distinction can be made between the protection of the best interest or the right of the non-citizen child (not to be understood as an obligation on the child to speak) compared to children carrying the status of Swedish citizenship. The CRC applies within the Swedish jurisdiction and within this jurisdiction nationality is a protected category against discrimination.

## THE RIGHTS OF THE CHILD WHO IS A VICTIM OF CHILD TRAFFICKING

### Article 34

States Parties undertake duties to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall, in particular, **take all appropriate** national, bilateral and multilateral measures to prevent:

- a. The inducement or coercion of a child to engage in any unlawful sexual activity;
- b. The exploitative use of children in prostitution or other unlawful sexual practices;
- c. The exploitative use of children in pornographic performances and materials.

Article 34 of the CRC establishes a particular protection against sexual exploitation of the child. Since this now is Swedish law to be applied in all matters concerning the involvement of the public authorities on all levels of the government it is important to note that the wording of Article 34 holds two important provisions: First, it uses the word “take” – not adopt, this means that the Article is directly applicable and justiciable by an individual child in Sweden. Second, that the wording “all appropriate” refers to all measures to prevent the child from being subjected to sexual exploitation, not limited to legal measures.

### OP Article 8

1. States Parties shall **adopt appropriate measures** to protect the rights and interests of child victims of the practices prohibited under the present Protocol at all stages of the criminal justice process, in particular by:
  - a. Recognizing the vulnerability of child victims and adapting procedures to recognize their special needs, including their **special needs as witnesses**;<sup>19</sup>
  - b. **Allowing the views, needs and concerns of child** victims to be presented and considered in proceedings where their personal interests are affected, in a manner consistent with the procedural rules of national law;
3. States Parties shall ensure that, in the treatment by the criminal justice system of children who are victims of the offences described in the present Protocol, **the best interest of the child shall be a primary consideration**.

The optional protocol is as mentioned above incorporated and directly applicable when so stated, in accordance with the provisions of the protocol. The first section of Article 8 uses the wording “adopt” and is limited to the “appropriate” measures, which means that the protocol in this particular section will likely not be justiciable in court or administrative proceedings. However, where there are protections and structures put in place to protect the child witness for example, these routines, structures, and protections shall be offered to the child. Section 3 of Article 8 is not limited by a need to be “adopted” or “appropriate” instead it targets the treatment of the child in general and obligates the courts and other public authorities to ensure that the best interest of the child is a primary consideration in all actions.

## THE RIGHTS TO REHABILITATION AND REINTEGRATION

### Artikel 39 i barnkonventionen

States Parties shall **take all appropriate measures to promote physical and psychological recovery and social reintegration** of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts.

One significant aspect of being a child is that its future lies ahead. This specific child characteristic is expressed in Article 6 of the CRC. Firstly, as an absolute right to life, followed by, secondly, the progressive right to survival and development. Strongly connected to Article 6 is Article 39 of the CRC. The CRC does not carry any legal remedies, but Article 39 serves as an important rule of equity. The child, whose rights of the CRC have been violated, and as a consequence of these violations has suffered harm, has a right to rehabilitation and social reintegration. This provision is an often-overlooked article in the CRC, even though it is the only established direct consequence, following violations of the rights of the treaty.

18 This point was also emphasized in a government report examining the coherence between the Convention on the Rights of the Child and national law. *Barnkonventionen och svensk rätt* (The CRC and Swedish law), SOU 2020:63, Vol 3. p.1307.

**CRITICISM FROM THE  
COUNCEL OF EUROPE  
EXPERT GROUP  
AGAINST HUMAN  
TRAFFICKING**

*Article 36 of the Council of Europe Convention on Action against Trafficking in Human Beings provides for a monitoring mechanism to examine and monitor Member States' application of the Convention. The expert group for combating trafficking in human beings is called GRETA (the Group of Experts on Action against Trafficking in Human Beings, hereinafter referred to as "GRETA").*



The expert group GRETA has examined Sweden's compliance with the Convention in 2014 and 2018 and in its latest report <sup>20</sup> called on Swedish authorities to intensify efforts to prevent human trafficking of children, in particular by:

- Raising public awareness about the risks and different manifestations of child trafficking, including trafficking for the purpose of forced criminality, forced begging and forced marriage;
- Strengthening efforts to prevent unaccompanied and separated migrant and asylum seeking children from going missing from care, including by timely appointment of guardians, as well as better training and supervision of guardians and staff working in homes for such children;
- Improving the exchange of information on missing unaccompanied children between police forces and local authorities;
- Systematically carrying out police investigations into disappearance of unaccompanied and separated children and strengthening follow up and alert systems on report of missing children;
- Sensitizing and training child welfare professionals across the country on risks of trafficking and effective prevention measures;
- Raising awareness by including trafficking in human bodies as a topic in the national school curricula, accompanied by appropriate training of teachers.



Foto: Aedrian

20 The reports are published on the Council of Europe's website, see GRETA's latest report from 2018. <https://rm.coe.int/greta-2018-8-fgr-swe-en/16808b1cd7>



1,2

**MILLION OF CHILDREN ARE EXPOSED TO HUMAN TRAFFIC EVERY YEAR**

1500

**UNACCOMPANIED CHILDREN HAVE DISAPPEARED 2013-2016**

57

**OF 262 REPORTED HUMAN TRAFFICKING CASES WERE CHILDREN IN 2018**



**GRETA further calls on the Swedish authorities to ensure a more efficient and faster identification of child victims of human trafficking in order to provide them with appropriate assistance, and in particular to:**

- conduct expeditious registration of asylum-seeking children who are at risk of disappearing;
- ensure the timely appointment of guardians and adequate resourcing of the guardianship system in all municipalities, including limiting the numbers of children assigned to a guardian;
- ensure that the child's views are taken into account in asylum interviews, at which they should always be accompanied by a guardian and/or lawyer;
- routinely consider the possibility of child-specific forms of persecution, including trafficking, when interviewing asylum-seeking children;
- proactively identify unaccompanied and separated boys at risk of being trafficked for sexual exploitation and forced criminality;
- proactively identify unaccompanied and separated asylum seeking children who might have become victims of human trafficking for the purpose of forced marriage on their way to Sweden, including any related sexual exploitation;
- prevent violence or abuse at places of accommodation for unaccompanied asylum seeking or irregular migrant children;
- ensure that adolescent victims of trafficking who are transitioning into adulthood continue to receive specialized support and assistance.



**GRETA expresses concern at the low number of investigations, prosecutions and convictions in human trafficking cases, and in particular the absence of judgments concerning human trafficking through labour exploitation and trafficking in children. GRETA once again calls on the Swedish authorities to take measures to ensure that trafficking in human beings is investigated and prosecuted effectively, with proportionate and dissuasive sanctions, in particular by:**

- ensuring that units investigating human trafficking offences are properly resourced;
- continuing to improve the knowledge of investigators, prosecutors and judges about the seriousness of human trafficking, the severe impact of exploitation on the victims and the need to respect their human rights;
- ensuring that human trafficking cases are systematically prosecuted by prosecutors in the international prosecution offices;
- making full use of the existing legislation, including safeguarding the victims' rights in the criminal proceedings;
- strengthening efforts to investigate and prosecute cases of trafficking for the purpose of labour exploitation.

**GRETA also calls on the Swedish authorities to strengthen their efforts to ensure that victims of human trafficking are not punished for crimes they have been forced to commit.**



Foto: Sebastian Pichler

# **PERSPECTIVE FROM ACTORS IN SWEDEN**

*This part of the report presents the results from the Scandinavian Human Rights Lawyers' own experiences in the work of representing victims of human trafficking in legal proceedings together with the results from in-depth interviews with representatives of authorities, civil society, sheltered housing and other actors working against human trafficking in Sweden. Together with the Scandinavian Human Rights Lawyers, the actors have highlighted their experiences of what works and does not work well regarding the fight against human trafficking and assistance to victims of human trafficking, particularly vulnerable children.<sup>21</sup>*

The starting point for this qualitative study has been the following questions:

- To what extent is the Convention on the Rights of the Child applied in the work against human trafficking?
- What is the experience of the various actors on how the Council of Europe's Convention on Combating Human Trafficking is fulfilled? Our particular focus has been on discrimination, preventive measures, border measures, identification of and assistance to victims of crime, access to a period of reflection, residence permits, and repatriation and return.
- Has the criticism that the Council of Europe's Group of Experts on Action against Trafficking in Human Beings, GRETA, highlighted in its latest report on Sweden, led to any change or are the same shortcomings still noticeable?



Foto: Laura Chouettei

### **ARTICLE 3 | COUNCIL OF EUROPE CONVENTION – NON-DISCRIMINATION PRINCIPLE**

The implementation of the provisions of this Convention by Parties, in particular the enjoyment of measures to protect and promote the rights of victims, shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

21 For more information about those who participated in the in-depth interviews, see the appendix.

## ARTICLE 2 | UN CONVENTION ON THE RIGHTS OF THE CHILD – NON-DISCRIMINATION

States Parties shall respect and ensure the rights set forth in the present convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.

### I IDENTIFIED DEFICIENCIES IN THE AREA

1. The regional coordinators against human trafficking in Region North and Central, and several other actors, believe that the social services, based on the principle of non-discrimination, need to take greater responsibility for the vulnerable children who are present in Sweden, regardless of whether they come from a third country, are EU citizens or Swedish citizens. When children are found in tent camps and settlements in Sweden, the social services accept a lower standard for the children, who are EU citizens, and are temporarily present in Sweden, than what is accepted for children who are Swedish citizens. The children in the camps can live among rats, with deficiency on running water and poor heating and hygiene options. Regional coordinators have received the response from the social services that "the children have roof over their heads and live in similar conditions in their home country". The regional coordinators and other actors consider that children who are not Swedish citizens should still be allowed to live in Sweden according to a reasonable standard of living. Vulnerable children from the EU rarely receive crime victim status, even in cases where they are found begging. The risk of exploitation of children who live in tent camps is significant. Against this background it is necessary that the social services establish the children's identities and who is the guardian of each child as a step in detecting exploitation. Every child's needs must be taken into account at the individual level.
2. The principle of non-discrimination must apply in all aspects of social service management concerning crime victims. It is often a lack of financial resources within the social services that leads to lack of responsibility for victims, e.g. not being able to finance a placement or support measure for a victim. The regional coordinators have drawn attention to the fact that within some social authorities one can hear reasonings that it's not "our citizens" and therefore it is not "our responsibility". If a crime victim in Sweden has children in another country, Swedish authorities should signal to the home country that the child's situation needs to be investigated and assessed.
3. When a child is taken into care by the social services due to exploitation, disappears or deviates, the social services, when the children escape from the authority's supervision, lack a routine for reporting these children missing. These children are therefore at a greater risk of being exposed to re-trafficking or further exploitation. If it's Swedish children, the social services must act when a child disappears but when it concerns EU citizens the authority can report the child as missing and report to the authorities of the home country, but this is rarely done. There is a difference in the routines concerning children that creates an option for the authorities to not take responsibility for all children's life situation, regardless of nationality. The routines surrounding unaccompanied children, which are found primarily in the social services and within the Swedish Migration Board, are deficient. There is a high risk that unaccompanied children disappear. The regional coordinators find that the authorities have sometimes discharged children who have deviated from the system instead of following up and making inquiries. Unaccompanied children need to be called for because they risk getting hurt.

### Summary

The social services and the municipalities do not take the responsibility that is incumbent on them for all vulnerable children staying in Sweden with reference to the fact that they are not Swedish citizens or because of economic reasons. If a child escapes, the social services handle it differently depending on whether the child is a Swedish citizen or not. When a child is found in a tent camp, the social services do not act to the same extent as if it had been a Swedish citizen. There is a greater tolerance for poor and substandard living conditions for children who are EU citizens than living conditions of Swedish children.



## ARTICLE 5 | COUNCIL OF EUROPE CONVENTION - PREVENTION OF TRAFFICKING IN HUMAN BEINGS

1. Each Party shall take measures to establish or strengthen national coordination between the various bodies responsible for preventing and combating trafficking in human beings.
2. Each Party shall establish and/or strengthen effective policies and programs to prevent trafficking in human beings, by such means as: research, information, awareness raising and education campaigns, social and economic initiatives and training programs, in particular for persons vulnerable to trafficking and for professionals concerned with trafficking in human beings.
3. Each Party shall promote a Human Rights based approach and shall use gender mainstreaming and a child sensitive approach in the development, implementation and assessment of all the policies and programs referred to in paragraph 2.
4. Each Party shall take appropriate measures, as may be necessary, to enable migration to take place legally, in particular through dissemination of accurate information by relevant offices, on the conditions enabling the legal entry in and stay on its territory.
5. Each Party shall take specific measures to reduce children's vulnerability to trafficking, notably by creating a protective environment for them.
6. Measures established in accordance with this article shall involve, where appropriate, non-governmental organizations, other relevant organizations and other elements of civil society committed to the prevention of trafficking in human beings and victim protection or assistance.



Foto: Osman Rana

## ARTICLE 34 | UN CONVENTION ON THE RIGHTS OF THE CHILD – PREVENTION

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

- a. The inducement or coercion of a child to engage in any unlawful sexual activity;
- b. The exploitative use of children in prostitution or other unlawful sexual practices;
- c. The exploitative use of children in pornographic performances and materials.



### IDENTIFIED DEFICIENCIES IN THE AREA

Several actors, including the Uppsala EU cooperation team and the regional coordinators against human trafficking, consider that, for it to be effective, much more extensive efforts are needed for the preventive work against human trafficking, from both public authorities and civil society, and in particular trafficking in human beings of children. Both preschool, school and health care institutions must have the tools to pay attention to children and young people who may be exposed to exploitation and identify them as victims of crime. Preschool and school staff need to be educated to notice warning signs of vulnerability in children, in line with GRETA's criticism. Also, the Swedish Migration Agency's Central Coordinator Against Human Exploitation agrees that plans to spread knowledge and education on trafficking in human beings and human exploitation, must exist on a broader scale in society.

### POSITIVE ASPECTS

Uppsala municipality has extensive knowledge and experience about cooperation to prevent human trafficking and well working cooperation between authorities and civil society.

The Uppsala EU Cooperation team is a good example of this. The team consists of representative of the police authority, the social services and representatives of civil society and they reach out to many children, young people and other individuals living in street environment and exploitation. The team has also good collaboration with administrators at various authorities, and the social services in Uppsala have much knowledge about human trafficking and human exploitation, which is necessary in order to work effectively with prevention against human trafficking.

### Summary

Authorities, preschools, and schools need to act and create a protective environment for vulnerable children. Furthermore, knowledge and cooperation must be greater, within all functions of society, to be able to see and identify all children and young people who are potential victims of human trafficking. A lack of knowledge is devastating when working preventively against human trafficking. Collaboration is also needed on a national level where authorities facilitate cooperation with various actors from civil society.



## ARTICLE 7 | COUNCIL OF EUROPE CONVENTION - BORDER MEASURES

1. Without prejudice to international commitments in relation to the free movement of persons, Parties shall strengthen, to the extent possible, such border controls as may be necessary to prevent and detect trafficking in human beings.
2. Each Party shall adopt legislative or other appropriate measures to prevent, to the extent possible, means of transport operated by commercial carriers from being used in the commission of offences established in accordance with this Convention.
3. Where appropriate, and without prejudice to applicable international conventions, such measures shall include establishing the obligation of commercial carriers, including any transportation company or the owner or operator of any means of transport, to ascertain that all passengers are in possession of the travel documents required for entry into the receiving State.
4. Each Party shall take the necessary measures, in accordance with its internal law, to provide for sanctions in cases of violation of the obligation set forth in paragraph 3 of this article.
5. Each Party shall adopt such legislative or other measures as may be necessary to permit, in accordance with its internal law, the denial of entry or revocation of visas of persons implicated in the commission of offences established in accordance with this Convention.
6. Parties shall strengthen cooperation among border control agencies by, inter alia, establishing and maintaining direct channels of communication.

### IDENTIFIED DEFICIENCIES IN THE AREA

Several actors, including the Swedish Platform Civil Society against Human Trafficking and the sheltered housing for victims of human trafficking that were interviewed believes that the Swedish Migration Agency and border police often lacks the necessary knowledge to strengthen such border controls as may be needed to prevent and detect human trafficking. The border police, who are searching for individuals who are illegally in the country, at the same time, meet the individuals who have been trafficked. They need training and tools to be able to see signs of exploitation and identify these people and pass them on to receive support and assistance.



Foto: Raphael Nogueira

## ARTICLE 10 | COUNCIL OF EUROPE CONVENTION – IDENTIFICATION OF THE VICTIMS

1. Each Party shall provide its competent authorities with persons who are trained and qualified in preventing and combating trafficking in human beings, in identifying and helping victims, including children, and shall ensure that the different authorities collaborate with each other as well as with relevant support organizations, so that victims can be identified in a procedure duly taking into account the special situation of women and child victims and, in appropriate cases, issued with residence permits under the conditions provided for in Article 14 of the present Convention.

2. Each Party shall adopt such legislative or other measures as may be necessary to identify victims as appropriate in collaboration with other Parties and relevant support organizations. Each Party shall ensure that, if the competent authorities have reasonable grounds to believe that a person has been victim of trafficking in human beings, that person shall not be removed from its territory until the identification process



Foto: Tamara Menzi

as victim of an offence provided for in Article 18 of this Convention has been completed by the competent authorities and shall likewise ensure that that person receives the assistance provided for in Article 12, paragraphs 1 and 2.

3. When the age of the victim is uncertain and there are reasons to believe that the victim is a child, he or she shall be presumed to be a child and shall be accorded special protection measures pending verification of his/her age.

4. As soon as an unaccompanied child is identified as a victim, each Party shall:

- provide for representation of the child by a legal guardian, organization or authority which shall act in the best interests of that child;
- take the necessary steps to establish his/her identity and nationality;
- make every effort to locate his/her family when this is in the best interests of the child.

### IDENTIFIED DEFICIENCIES IN THE AREA

1. Many actors, including the regional anti-trafficking coordinators, The Salvation Army's national coordinator against human trafficking, the sheltered housing Lyktan and Noomi Hela Människan, all emphasize that the most obvious shortcoming in terms of compliance with the Council of Europe Convention on Combating Trafficking in Human Beings, is identifying victims of human trafficking, especially children. When victims of human trafficking are not identified as victims of crime by the police authority, the social services, the Swedish Migration Agency or another authority, they do not get access to the rights they are entitled to have access to. Several authorities are lacking in understanding of their responsibility to identify victims of crime, and also lacking in the process of seeing signs of vulnerability of children and other individuals.

2. There is a lack of knowledge surrounding human trafficking within authorities such as The Swedish Migration Agency's officers. If the officers lack necessary knowledge concerning human trafficking, the process becomes arbitrary and not legally secure. The lack of competence is noticeable when the officer does not know what questions need to be asked in order to investigate the circumstances around human trafficking. Many times these cases are complex and do not fit into a template but officers routinely go through the case without connecting the victim to support measures and rights to which a crime victim is entitled, such as e.g. involving regional coordinators against human trafficking. The authorities' ignorance results in lacking support for victims of human trafficking who are in need of shelter.

3. The regional coordinators against human trafficking highlights the lack of routines within various authorities to identify victims of human trafficking. The situation differs from municipality to municipality, depending on if the social services have well-developed routines to meet victims of human trafficking. Children in tent camps or children who are exploited in crime for committing thefts are not identified as victims of crime for exploitation. Re-sponsible authorities do not have the routines or knowledge to take care of these children in an appropriate manner. Uppsala EU cooperation also highlights the lack of insight and routines surrounding children at risk of exploitation and human trafficking. There are no appropriate procedures in securing a child's identity or identify who his/her guardians are, instead children can continue to be exploited by a person who claims to be his/her guardian.
4. Most parties state that there are large deficiencies in the knowledge of how to meet the children properly. Representative of the Malmskillnadsgatan team underlines that officers who take care of child matters must understand children's ways of talking about their experiences. Officers cannot ask standardized questions and make standardized assessments of behavior. Another issue that was raised by the regional coordinators against human trafficking and the Salvation Army national coordinator among others, was that children who have been trafficked meet police officers without the necessary child interrogation training or education in human trafficking. The legal system is made by adults for adults and they often lack knowledge of a child's perspective.
5. The National Coordinator of the Salvation Army lifts the problem that children who are accompanying victims of human trafficking are not identified as crime victims with plaintiff status. The child does not become an independent rights holder. When the child, instead of being viewed as a crime victim, is viewed as indirectly exposed, it is not part of the process. The Swedish Migration Agency's central coordinator says that children who are involved in family reunion cases and work permit proceedings as accompanying their parent or guardian, they risk going unnoticed. Officers must therefore be aware of the child's situation and be vigilant of exploitation indications.
6. The Swedish Migration Agency's central coordinator considers that case officers need greater knowledge about trauma in victims of trafficking, in order to identify crime victims. Many authorities would benefit from greater competence regarding trauma and how it is expressed and why an individual might respond as he/she does. Lack of trauma awareness is one reason why many victims of crime are not identified.

### POSITIVE ASPECTS

1. The Regional coordinator against human trafficking in northern Sweden considers that to-day, the Swedish Migration Agency is the authority which in Region North has the most well prepared structure for the identification of victims of crime.
2. Through cooperation with civil society Region North has a shelter for vulnerable EU citizens. There the regional coordinators have met many children who had been identified as victims of human trafficking, children who otherwise would not have obtained victim status.
3. The Swedish Migration Agency's central coordinator is available to turn to for support in general matters, a national function that is important and to a large extent assistance in work against human trafficking dissemination of knowledge and coordination.

### Summary

The lack of knowledge and routines among authorities to identify victims of human trafficking is extensive. Authorities need to be more aware of how trauma affects a person's opportunities to retell their experiences. Furthermore, there is a lack of routine in how the social services, and authorities within the judiciary, treat children. There is a lack of understanding and knowledge in dealing with children and their way of expressing themselves. There is a need for more case officers and professionals who are trained in dealing with children. Furthermore, children who are accompanying the plaintiff do not receive status even though they are in great need of it.



## ARTICLE 12 | COUNCIL OF EUROPE CONVENTION – ASSISTANCE TO VICTIMS

1. Each Party shall adopt such legislative or other measures as may be necessary to assist victims in their physical, psychological and social recovery. Such assistance shall include at least:
  - a. standards of living capable of ensuring their subsistence, through such measures as: appropriate and secure accommodation, psychological and material assistance;
  - b. access to emergency medical treatment;
  - c. translation and interpretation services, when appropriate;
  - d. counselling and information, in particular as regards their legal rights and the services available to them, in a language that they can understand;
  - e. assistance to enable their rights and interests to be presented and considered at appropriate stages of criminal proceedings against offenders;
  - f. access to education for children.
2. Each Party shall take due account of the victim's safety and protection needs.
3. In addition, each Party shall provide necessary medical or other assistance to victims lawfully resident within its territory who do not have adequate resources and need such help.
4. Each Party shall adopt the rules under which victims lawfully resident within its territory shall be authorized to have access to the labour market, to vocational training and education.
5. Each Party shall take measures, where appropriate and under the conditions provided for by its internal law, to cooperate with non-governmental organizations, other relevant organizations or other elements of civil society engaged in assistance to victims.
6. Each Party shall adopt such legislative or other measures as may be necessary to ensure that assistance to a victim is not made conditional on his or her willingness to act as a witness.
7. For the implementation of the provisions set out in this article, each Party shall ensure that services are provided on a consensual and informed basis, taking due account of the special needs of persons in a vulnerable position and the rights of children in terms of accommodation, education and appropriate health care.



Foto: Magnus Ostberg

## ARTICLE 3(1) | UN CONVENTION ON THE RIGHTS OF THE CHILD

In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

## ARTICLE 8(3) | UN OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE CHILD ON THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY

Convention states shall ensure that, in the treatment by the criminal justice system of children who are victims of the offences described in the present Protocol, the best interest of the child shall be a primary consideration.

### IDENTIFIED DEFICIENCIES IN THE AREA

1. The operation Noomi Hela Människan points to when victims of human trafficking have children, there is a need for support for parents in order to assist them in being safe and stable parents. These parents often carry their own trauma from human trafficking, that affects their capacity and ability to meet their children's needs. The children are indirectly harmed because of what the parent has been exposed to. That's why the children have a great need for care and security. They need, just like the parent, significant amount of support to process what has happened. Authorities must take this aspect into account when assessing the situation of the individual child.
2. Several actors raise the issue that children who have been directly or indirectly affected by human trafficking does not have access to trauma assessments at BUP based on what the child has witnessed or been exposed to. Often, both children and the parent can suffer from PTSD that affects the individual in a significant way. Authorities must consider the child's experiences and the right to support measures, in the best interests of the child. At present, children do not have the necessary access to all the care, legal information and information in their own language that they should have access to.
3. The social services have the task of taking care of victims of crime within their municipality. Actors such as Uppsala EU cooperation, the sheltered housing Lyktan and the Salvation Army believe that it's above all asylum seekers and undocumented individuals who are affected by the fact that the social services do not take responsibility for these individuals, because there is a lack of funding and a municipal action plan for how to provide protection and support to victims of human trafficking. The Swedish Migration Agency identifies many potential victims in its processes, but it is far from everyone who gets a place in sheltered housing, which means that many are overlooked and do not receive the help they are entitled to.
4. Assistance to crime victims shall not be conditional with the willingness of the victims to testify. The regional coordinators against human trafficking see shortcomings in authorities' treatment of victims of trafficking and regarding their right to information and support measures.
5. The Swedish Platform Civil Society against Human Trafficking believes it is a deficiency that the social services does not have a statutory requirement to act and take responsibility in the same way for individuals who do not have Swedish citizenship, and that this responsibility often falls on non-profit actors who provide time and resources to vulnerable people.

### POSITIVE ASPECTS

The Swedish Migration Agency has improved its routines in contacting the regional coordinators to ask for help in various matters. Furthermore, the Swedish Migration Agency has improved in asking investigative questions based on suspicion of human trafficking. The Swedish Migration Agency's Coordinator contributes with important knowledge to the regional coordinators regarding various processes and takes greater responsibility to educate the Swedish Migration Agency's staff.

### Summary

Authorities that come into contact with children who are victims of human trafficking or accompanying parents who are crime victims must take into account the child's experiences and the right to support, in the best interests of the child. At present, children do not have the necessary access to all the care, legal information and information in their own language that they should have access to. Asylum seekers and undocumented individuals are affected by the fact that the social services do not take responsibility for these individuals, because there is a lack of funding and a municipal action plan for how to provide protection and support to victims of human trafficking. The Swedish Migration Agency identifies many potential victims in its processes, but far from everyone is placed in sheltered housing, which means that many are overlooked and do not receive the help they are entitled to.

## ARTICLE 13 | COUNCIL OF EUROPE CONVENTION – RECOVERY AND REFLECTION PERIOD

1. Each Party shall provide in its internal law a recovery and reflection period of at least 30 days, when there are reasonable grounds to believe that the person concerned is a victim. Such a period shall be sufficient for the person concerned to recover and escape the influence of traffickers and/or to take an informed decision on cooperating with the competent authorities. During this period, it shall not be possible to enforce any expulsion order against him or her. This provision is without prejudice to the activities carried out by the competent authorities in all phases of the relevant national proceedings, and in particular when investigating and prosecuting the offences concerned. During this period, the Parties shall authorize the persons concerned to stay in their territory.
2. During this period, the persons referred to in paragraph 1 of this Article shall be entitled to the measures contained in Article 12, paragraphs 1 and 2.



Foto: Priscilla Du Preez



## ARTICLE 39 | UN CONVENTION ON THE RIGHTS OF THE CHILD

Conventions States shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self respect and dignity of the child.

### IDENTIFIED DEFICIENCIES IN THE AREA

1. In Sweden, a police report and an application from a preliminary investigation leader are required for victims of human trafficking to have a so-called reflection period, i.e., a period with recovery to escape the grip of traffickers and their influence and be able to decide whether they dare to cooperate with the police, prosecutors and other authorities. According to the Council of Europe Convention on Action against Trafficking in Human Beings, this period of reflection must be given unconditional, i.e. without any connection to an ongoing criminal case.
2. Several actors highlight that Sweden does not live up to the commitment of an unconditional reflection period and that access to assistance for victims of human trafficking is conditional on the victim cooperating in the investigation of a criminal case. Often the perpetrators, the traffickers, are in another country and in the Aliens Act, the right to reflection period depends on if a person in charge of an investigation can initiate a preliminary investigation, which is not possible when the crime has not been committed in Sweden.
3. The Swedish Migration Agency's central coordinator indicates that there are difficulties in identifying asylum seeking victims of human trafficking because applicants do not always dare to tell everything that is relevant. For example, when it comes to women who have been subjected to ritual ceremonies around human trafficking, such as juju and voodoo in their home country, the women do not dare to share everything with the Swedish Migration Agency about what they have been exposed to due to shame and fear. It affects the possibility for women who have been victims of human trafficking to receive a reflection period. The operation Noomi Hela Människan states that many victims of human trafficking express great fear over telling the police authority and other authorities if they have been exposed to

### Case study: The berry pickers in Älvsbyn

During the summer of 2021, a group of 56 people, including ten children, came from Bulgaria to pick berries in Söderhamn. They lived in tent camps for three weeks without Söderhamn municipality acting and then the group traveled on to Älvsbyn in cars that had a driving ban. When the group was stopped, the berry pickers said that they paid about 1500 Euro for travel, transport and cars to be able to pick berries in Sweden but that they did not receive any salary for their work. The group was transported to Arvidsjaur and sent by the municipality by train to Stockholm, where there was no organized reception. Representatives from Uppsala EU Cooperation went to meet the group and give them food and supplies. Representatives from the Salvation Army informed the berry pickers about the return program, to which 32 agreed.

Although there were very strong indications of human trafficking and a strong link to organized crime, none of the 56 berry pickers received an initial reflection period or victim status despite all authorities identifying them as suspected victims, as only pre-trial investigators can apply for crime victim status. Not a single child received victim status in Sweden, despite the fact that the regional coordinators paid attention to them as victims of crime.

voodoo. They are worried about their children in their home country becoming victims of torture or executions if the parent talks about what they have been subjected to. Without support and time to process the experiences important information will not be lifted by the victim, because of fear of the consequences. It will be difficult for women to have access to the recovery period they need before they can even tell what they have been through. Knowledge about this must exist within all authorities. A period of reflection can have a decisive impact on a preliminary investigation, when the victim has time to provide more relevant information and evidence surrounding the crime.

4. All actors agree that the reflection period for victims of human trafficking should be granted much more generously and that victims of human trafficking need information about their rights and support when reporting threats from human trafficking networks or from perpetrators who have exploited them in the past. Many don't know about their rights and must be informed of these before they can decide whether or not to participate in different processes. The sheltered accommodation Lyktan states that it is often decided very quickly that a preliminary investigation or police investigation is closed, but despite this, all victims of human trafficking should have the 30 days to recover and think about their next step in the process.
5. The Swedish Platform Civil Society against Human Trafficking considers that civil society has not been granted the funding necessary to be able to help victims of human trafficking who do not receive help from authorities. The National Support Program (NSP) is available

to offer a period of reflection when the state does not grant it. NSP is financed by the state, but the financing is uncertain, and the grant often comes too late. In order for the parties concerned to be able to cooperate against human trafficking, Sweden must strengthen national cooperation. The National Support Program is an important resource that can finance a reflection period for victims of human trafficking before a police report is made. Starting a process of forcing the victim into police contact in order to have the opportunity to rest and recover is not a good start. A process will be much easier if the victim first gets access to reflection time and through that, opportunity to rest and recovery. Thereafter, a police report can be made if the victim so wishes.



Foto: Noelle Rebekah

### Summary

According to the Council of Europe Convention on Action against Trafficking in Human Beings, victims of trafficking must be given a period of reflection for recovery and rest, i.e., a period of recovery to break free from the grip and influence of traffickers and decide whether to cooperate with police, prosecutors and other authorities. This period of reflection must be given unconditionally to victims of human trafficking, i.e., without connection to an ongoing criminal case. Several actors highlight that Sweden does not live up to the commitment of an unconditional reflection period and that the access to help for victims of human trafficking is conditional whether the victim cooperates in the investigation of a criminal case. The perpetrators - the traffickers - are often in another country and in the Aliens Act, the rules on reflection period are conditional on a preliminary investigation leader being able to initiate a preliminary investigation, which is not possible when the crime has not been committed in Sweden.

## ARTICLE 14 | COUNCIL OF EUROPE CONVENTION - RESIDENCE PERMIT

1. Each Party shall issue a renewable residence permit to victims, in one or other of the two following situations or in both:
  - a. the competent authority considers that their stay is necessary owing to their personal situation;
  - b. the competent authority considers that their stay is necessary for the purpose of their cooperation with the competent authorities in investigation or criminal proceedings.
2. The residence permit for child victims, when legally necessary, shall be issued in accordance with the best interests of the child and, where appropriate, renewed under the same conditions.
3. The non-renewal or withdrawal of a residence permit is subject to the conditions provided for by the internal law of the Party.
4. If a victim submits an application for another kind of residence permit, the Party concerned shall take into account that he or she holds, or has held, a residence permits in conformity with paragraph 1.
5. Having regard to the obligations of Parties to which Article 40 of this Convention refers, each Party shall ensure that granting of a permit according to this provision shall be without prejudice to the right to seek and enjoy asylum.

### IDENTIFIED DEFICIENCIES IN THE AREA

1. The Swedish Platform Civil Society against Human Trafficking highlights the aspect of undocumented children or children with undocumented parents to a greater extent are at risk of being exploited than other asylum seeking individuals. It is in the nature of the human trafficking crime that the victim usually is taken across a national border and therefore many trafficking victims do not have legal status for their stay in Sweden – because they are a victim of a crime.
2. Several actors state that when it comes to the case of co-applicants, the children are also asylum seekers due to their own protection reasons. However, the Swedish Migration Agency does not always take the child's risks into account, even though they should take into account that the children are indirect victims and their personal risk of being exposed to re-trafficking themselves. Regarding children at a young age, a forward looking assessment must be made of what the risk looks like when they grow older and here the child's best interests are not always considered. It is contrary to the child's best interests when the Swedish Migration Agency weighs the child's best interests against the state's regulation of immigration.

### Summary

According to the Council of Europe Convention on Action against Trafficking in Human Beings, residence permits must be granted when required for legal reasons. For crime victims who are children, a residence permit must be issued if it is in the best interests of the child and, if necessary, renewed on the same grounds. It is contrary to the child's best interests when the Swedish Migration Agency weighs the child's best interests against the state's regulation of immigration and not always consider the children to be indirect victims and their personal risk of being trafficked themselves.



Foto: Jesus Rodriguez



## ARTICLE 16 | COUNCIL OF EUROPE CONVENTION - REPATRIATION AND RETURN OF VICTIMS



Foto: Markus Winkler

1. The Party of which a victim is a national or in which that person had the right of permanent residence at the time of entry into the territory of the receiving Party shall, with due regard for his or her rights, safety and dignity, facilitate and accept, his or her return without undue or unreasonable delay.
2. When a Party returns a victim to another State, such return shall be with due regard for the rights, safety and dignity of that person and for the status of any legal proceedings related to the fact that the person is a victim and shall preferably be voluntary.
3. At the request of a receiving Party, a requested Party shall verify whether a person is its national or had the right of permanent residence in its territory at the time of entry into the territory of the receiving Party.
4. In order to facilitate the return of a victim who is without proper documentation, the Party of which that person is a national or in which he or she had the right of permanent residence at the time of entry into the territory of the receiving Party shall agree to issue, at the request of the receiving Party, such travel documents or other authorization as may be necessary to enable the person to travel to and re-enter its territory.
5. Each Party shall adopt such legislative or other measures as may be necessary to establish repatriation programs, involving relevant national or international institutions and non-governmental organizations. These programs aim at avoiding re-victimisation. Each Party should make its best effort to favor the reintegration of victims into the society of the State of return, including reintegration into the education system and the labor market, in particular through the acquisition and improvement of their professional skills. With regards to children, these programs should include enjoyment of the right to education and measures to secure adequate care or receipt by the family or appropriate care structures.
6. Each Party shall adopt such legislative or other measures as may be necessary to make available to victims, where appropriate in co-operation with any other Party concerned, contact information of structures that can assist them in the country where they are returned or repatriated, such as law enforcement offices, non-governmental organizations, legal professions able to provide counselling and social welfare agencies.
7. Child victims shall not be returned to a State, if there is indication, following a risk and security assessment, that such return would not be in the best interests of the child.

## ARTICLE 39 | UN CONVENTION ON THE RIGHTS OF THE CHILD - ADAPTATION AND REHABILITATION

States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman, or degrading treatment or punishment; or armed conflicts.

### IDENTIFIED DEFICIENCIES IN THE AREA

1. Children are particularly vulnerable and are at high risk of being trafficked or re-trafficked if they deviate from the authorities' supervision. Especially unaccompanied minors, asylum seeking children are a large risk group. To counteract this, good and organized ways of returning are required, with speedy proceedings so that the children do not have time to deviate and disappear. According to the Council of Europe Convention, return must take place without undue delay. The Swedish Migration Agency's central coordinator states that it is difficult to execute a return together with all the authorities and actors involved. It is the Swedish Migration Agency that is responsible for the return according to its government assignment and the police authority's task is to carry out the return. There are many different perspectives to meet and in that it can be a challenge to get as good of an outcome as possible from the child's perspective.
2. As for the deportation of families with children where a parent has been a victim of human trafficking, the Swedish Migration Agency and the border police fail to obtain concrete and individual guarantees from the home country that the families who will be returning will be received with a safe reception.
3. Many actors point out that the victims do not receive the necessary return assistance. Through the International Organization for Migration (IOM) - a return program where victims of human trafficking are to be offered support to return safely to their home country - the victim is provided with financing the first six months up to one year. IOM is a well-functioning program, but it does not solve the basic problems that contribute to people ending up in exploitation. The operation Noomi Hela Människan, Uppsala EU Cooperation and also the sheltered housing Lyktan states that the support is too shortlived and that it does not address the basic problems of economic vulnerability, social injustice and discrimination. The risk of re-trafficking when the victim returns is at its greatest for up to two years, which means that six months' support is not enough. Major changes are required by the individual in a very short time for it to have longterm effects.
4. Uppsala EU Cooperation states that return processes for children exposed to crime is often too speedy. In some municipalities, when authorities meet children who are victims of crime, the children are put on a flight home without a safe return program, which cannot ensure the children's safety.

#### Summary

According to the Council of Europe Convention, children exposed to crime should not be returned to a state if there is a risk and a safety assessment that indicates that such a return would not be in the best interests of the child. It can be difficult to enforce a safe return with all the authorities and actors involved and the Swedish Migration Agency and the border police fail to obtain concrete and individual guarantees from the home country that the families who are to return will be received with a safe reception.

# SUMMARISING ANALYSIS

This report presents the results of in-depth interviews with representatives of authorities, civil society, sheltered housing and other actors working against human trafficking in Sweden. The actors have raised their experiences of what works and does not work well in terms of combating human trafficking and helping victims of human trafficking and particularly vulnerable children.

## THE CONCLUSIONS ARE THAT SWEDEN DOES NOT LIVE UP TO ITS INTERNATIONAL COMMITMENTS REGARDING THE FIGHT AGAINST HUMAN TRAFFICKING IN ACCORDANCE WITH INTERNATIONAL CONVENTIONS.

The primary rights documents to strengthen children's rights in this area is, the UN Convention on the Rights of the Child, the Convention on the Rights of the Child and the Convention's Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography. The central rights document to strengthen the protection of victims

of trafficking in human beings in Europe, is Council of Europe Convention on Action against Trafficking in Human Beings. The Convention clarified that trafficking in human beings is a crime against the human rights and a violation of human dignity and integrity.

The starting point for the in-depth interviews has been the rights perspective of the Convention on the Rights of the Child, the Council of Europe Convention on combating trafficking in human beings and the points raised by the Council of Europe's expert group on trafficking in human beings, GRETA, in its latest report on Sweden.

The conclusions are that Sweden does not live up to its international commitments regarding the fight against human trafficking in accordance with international conventions.





**The measures required are many:**

- Extensive educational efforts, greater knowledge and cooperation in all functions of society are needed to be able to see and identify all children and young people who are potential victims for human trafficking. Collaboration must also take place at a national level where authorities facilitate cooperation with various actors from civil society.
- The lack of knowledge and routines in authorities to identify victims for human trafficking, is extensive. The authorities need to be more aware of how trauma affects a person's opportunities to retell their experiences. Furthermore, there is a lack of routines in how the social services and authorities in the judiciary treat children. There is a shortage in understanding and knowledge in handling children and their way of expressing themselves. There must be more case officers and professionals who are trained in handling with children. Furthermore, children who are accompanying to a victim do not get plaintiff status even though they are in need of it.
- At present, children who are victims of human trafficking or accompanying children to victims of human trafficking, do not have the necessary access to all the care, legal information and information in their own language that they should have access to. Asylum seekers and the undocumented are affected by the social services not taking responsibility for these individuals because there is a lack of funding and a municipal action plan for how to provide protection and support to victims of human trafficking. The Swedish Migration Agency identifies many potential victims in its processes, but it is far from everyone who gets a place in sheltered housing, which means that many are overlooked and do not receive the help they are actually entitled to.
- According to the Council of Europe Convention on Action against Trafficking in Human Beings, victims of trafficking must be granted a period of reflection for recovery and rest, i.e. a period of recovery to escape the grip of traffickers and their influence, and be able to decide whether they dare to cooperate with the police, prosecutors and other authorities. This period of reflection must be given unconditionally to victims of human trafficking, i.e., without connection to an ongoing criminal case. Several actors highlight that Sweden does not live up to the commitment of an unconditional reflection period and that access to assistance for victims of human trafficking is conditional to the victim's cooperation in the investigation of a criminal case. Often the perpetrators, the traffickers, are in another country and in the Aliens Act, the rules on reflection period are conditional on a preliminary investigation leader being able to initiate a preliminary investigation, which is not possible when the crime has not been committed in Sweden.
- According to the Council of Europe Convention on Action against Trafficking in Human Beings, residence permits must be granted when required for legal reasons. For victims of crime who are children, a residence permit must be issued if it is in the best interests of the child and, if necessary, renewed on the same conditions. It's contrary to the child's best interests that the Swedish Migration Agency weighs the child's best interests against the state's regulation of immigration and does not always take into account that the children are indirect victims and their personal risk of being exposed to human trafficking.
- According to the Council of Europe Convention, children exposed to crime should not be returned to a state if there is a risk and a safety assessment that indicates that such a return would not be in the best interests of the child. It can be difficult to enforce a safe return with all involved authorities and actors and the Swedish Migration Agency and the border police fail to obtain concrete and individual guarantees from the home country that the families who are to return will be received with a safe reception.

**We also propose the following measures in accordance with the recommendations of the expert group GRETA:**

1. Increase educational efforts on human trafficking and the child rights perspective for the general public, authorities and decision makers
2. Educate more case officers to work with children in the police authority, the social services and the Swedish Migration Agency and give them tools and expert knowledge regarding dealing with children and seeing risk behaviors
3. Raise awareness of human trafficking from a child rights perspective by including it in national school plan, syllabus and curriculum
4. Improve measures to prevent unaccompanied asylum seeking children from disappearing and therefore risk of being trafficked, by appointing specially custodians speedily.

# APPENDIX

## REGIONAL COORDINATORS AGAINST PROSTITUTION AND TRAFFICKING IN HUMAN BODIES

Regional coordinators against prostitution and human trafficking are in regions Bergslagen, Central, North, Stockholm, South, West and East. Tasks for a regional coordinator includes;

- assist regional authorities, for example police and social services, with support in human trafficking cases and act as one regional player with cuttingedge expertise in human trafficking
- sync the work against prostitution and trafficking in human beings at regional level with the work that takes place at national level through continuous contact with the national coordinator against prostitution and trafficking at The Gender Equality Authority
- link human trafficking cases in the region to the right body
- provides with cuttingedge expertise around these the questions.<sup>22</sup>

**Eva Norlin** works as a regional coordinator in Region North, a region that covers two thirds of Sweden. In Region North the regional coordinator focuses much of the work on the municipalities and that they themselves should be responsible for issues of human trafficking and prostitution. The main part of the work is done by educating and further train the municipalities and also as a coordinating function in strategic challenges. The work's practical assignment remains in identifying and meeting crime victims and giving support and help. The regional coordinator provides The Gender Equality Authority and the County Administrative Boards with information on how the situation looks like in the region.

**Anna Runesson** works as a regional coordinator in the Central Region. The region includes Västmanland, Gävleborg and Uppsala counties. The assignment is to lecture and educate municipalities, Social Services, Migration Agency, civil society and the general public about what it looks like in Sweden today and to spread manuals concerning trafficking in human beings. It includes an operational part that is done together with the police and Social Services. Together they seek out women who are exploited in prostitution, visits tent camps, identifies if any children are in begging and to determine who their custodians are. They also investigate apartment brothels. The regional coordinator also talks to sex buyers when they are caught during strikes, in addition to talking to the women involved. The assignment also includes working preventatively towards young people who are involved in sex for compensation and to do workplace inspections.

## NATIONAL COORDINATOR AGAINST HUMAN TRAFFICKING, THE SALVATION ARMY

The Salvation Army is present in 132 countries. One of the priorities in the organization's work is social justice. It's the basis of the Salvation Army mission to meet people and human needs. The Salvation Army has a clear non-discrimination mission which also means that they meet people who are vulnerable or living on margins. All the work of the Salvation Army is based on three focuses: empowerment, a holistic perspective and rights based.

The work against human trafficking rests on three legs: prevention - education, opinion formation, influence; practical - protection and support which includes two sheltered accommodation, two trafficking centers, drop-in operations, as well as other contexts; and reintegration. Within the Salvation Army's work, there is a consistent child perspective. This means that the children are included in all parts of the work, which is permeated by a rights based holistic perspective.

**Madeleine Sundell** works as a national coordinator at the Salvation Army in Sweden. She leads the work nationally and works to support the local units but also in the third leg with reintegration; to be able to be reintegrated into it country you are in, through a residence permit or through a safe return to your homeland. Strategically, the role also includes to look at Swedish legislation and the country's international commitments.



Foto: Roma Kaiuk



Foto: Abigail Grull

## SWEDISH PLATFORM CIVIL SOCIETY AGAINST HUMAN TRAFFICKING

Swedish Platform Civil Society against Human Trafficking (the Platform) brings organizations and actors in the civil society who meet and/or work to help victims of trafficking in human beings and human trafficking-like exploitation with the human rights as a value base together. The member organizations have different entrances in the work against human trafficking, and also various values. The organizations have different focus, which provides diversity in the work. The organizations work include: operating sheltered housing, providing legal advice, provides interpreting assistance, provides call support, conducts outreach activities, can help arrange internships and return safely to the home country and pushes to strengthen rights and change attitudes. The Platform works for the implementation of by Sweden ratified international conventions and documents and collects the actors' experiences of the victims' needs to make them heard. The Platform is also a party that can represent civil society and participate in dialogue with authorities and international actors in the common, cross border fight against human trafficking, as well as to strengthen the human rights for all vulnerable. Within the framework of the National Support Program the Platform can ensure that victims of trafficking receive the support they need and are entitled to, even when society for various reasons cannot directly finance it.<sup>23</sup>

In the in-depth interview, the Platform was represented by **Hanna Brandvik**. She is a board member of the Platform and represents the Salvation Army in the Platform's board.

## OPERATION NOOMI, HELA MÄNNISKAN

Noomi is an operation that offers support measures for persons exploited in trafficking for sexual purposes or prostitution. This takes place through various works that are carried out and include:

- a sheltered accommodation that offers a warm and welcoming environment for people in need of support and protection from insecure conditions;
- outreach and outwardly work via the internet, at massage parlors and based on needs in street environment;
- Safe Havens, the name of Noomi's legal counseling work, which is conducted in collaboration with the Salvation Army in Malmö and two lawyers;
- targeted support to people in Malmö Thai massage industry, in collaboration with Malmö Stad through an IOP agreement, under the project name thaiWISE;
- dissemination of knowledge and information in human trafficking and prostitution through lectures and participation in various advocacy work;
- within the staff group there is language competence in English, Spanish, Italian, German, Arabic and Thai;
- a long term and trust-building job, especially in the outreach work.<sup>24</sup>

The interview was conducted with **Maria Lindskog** and **Josefina Zadig**. Maria is the business manager for the sheltered accommodation Noomi. Josefina works as a social worker with a focus on outreach activities and is child manager at the accommodation.

23 Swedish Platform Civil Society Against Human Trafficking, Vår verksamhet, u.å. <https://manniskohandel.se/var-verksamhet/> [Retrieved 2021-10-05]



## **SHELTERED ACCOMMODATION LYKTAN, THE SALVATION ARMY**

Lyktan is one of the Salvation Army's protected housing for women and children exposed to human trafficking and violence in close relationships, with a special focus on victims of human trafficking for sexual purposes. Their goal is to support and give tools to the victims to be able to move on to an independent life. The work of Lyktan includes:

- Supported housing and long term initiatives for women and children who are victims.
- The accommodation is one of the few accommodations in Sweden with the opportunity to also accept and help men.
- Offers, among other things, support calls and "help to self-help", integration efforts; help to learn the Swedish language, studies, internships or work.
- Support to the victims in contacts with other actors and authorities.
- Support to build a functioning and long-term network.
- "Feel good" activities and community.

Kremena Hultby is the manager of the sheltered accommodation Lyktan was interviewed for the report. She has several years of experience working with issues relating to trafficking in human beings.

## **SWEDISH MIGRATION AGENCY'S CENTRAL COORDINATOR AGAINST HUMAN EXPLOITATION**

The central coordination against human exploitation is included under the *Unit for Operational Analysis at the Swedish Migration Agency*, where all criminal issues are gathered. The work against human exploitation shall happen uniformly regardless of what process a person is going through at the Migration Agency. It's a specified assignment from the government to work against human trafficking within The Swedish Migration Agency.

Lisa Hultin Knutas works as the central coordinator against human exploitation within the Swedish Migration Board. Her role includes:

- Create training, method support, support all the units in human trafficking questions.
- Create routines and templates for follow-up
- To be a part of a network where Lisa can help and coordinate the work of the regional coordinators against human trafficking within the various units.
- Examine current trends and patterns in migration.

- Create conditions for the work against human exploitation to take place uniformly.

## **UPSALA EU COOPERATION**

Uppsala EU Cooperation consists of representatives from the police authority, the social services and civil society in Uppsala. They work against the vulnerable EU citizens in street environments and against different varieties of human trafficking and human exploitation through primarily outreach activities.

Those who are part of Uppsala EU cooperation and where interviewed for the report are:

- **Annika Svensson**, police inspector within the local police department in Uppsala and Knivsta. Works with victims and perpetrators with focus on women and children. Since 2015 she has been working with a focus toward EU citizens in street environment.
- **Vlad Virgil**, Uppsala Youth Center, Social Services, with a focus on young people and children. He specifically focuses on children in a street environment, but also on human trafficking and prostitution.
- **Eva Moberg**, represents civil society through the organization Stödverksamhet. 2014–2019 operations manager for shelters aimed at vulnerable EU citizens and third-country nationals. Today she works to support victims of crime, with main focus on women and children. The work is primarily towards women in sexual exploitation, but also exploitation generally.

## **SCANDINAVIAN HUMAN RIGHTS LAWYERS**

- Work to promote human freedom and rights in Scandinavia and Europe
- A human rights law firm with focus on human rights, asylum and migration law, family law, social law, labor law and support for victims of crime in criminal cases as crime victims counsels
- Organizes lectures, seminars, trainings and theme days on human rights and produces reports on human rights

## **ELISE LINDQVIST – REPRESENTATIVE OF MALMSKILLNADSTEAMET**

Elise Lindqvist has worked for 25 years to provide support and assistance to women in prostitution and human trafficking on Malmskillnadsgatan in Stockholm.

