

Copenhagen 22.12.2016

Ombudsmandens Børnekontor
Gammeltorv 22
1457 Kbh K

Four problems which harm unaccompanied refugee children's ability to achieve their right to family reunification

We are Refugees Welcome, a humanitarian organisation which has for many years provided free, independent legal advice to refugees in Denmark. We have strong ties with the refugee communities here. Through our work, we have identified a set of four related problems in regard to the treatment by our authorities of unaccompanied refugee children arriving here. We know that you already take a great interest in the welfare of these children, who are some of the most vulnerable members of our society. So we write to alert you to these problems and hope that you will investigate them.

The four related problems facing unaccompanied refugee children are:

- (1) The Immigration Service ('the US') takes a long time to process these claims for asylum, even though they are supposed to be prioritised.
- (2) Many unaccompanied refugee children are not receiving the help they need to make family reunification applications effectively.
- (3) The US takes a long time to process their family reunification applications.
- (4) Once family reunification has been granted, the children do not have a right to help with travel costs and other fees, so in practice their family members cannot join them.

We explain below why these problems cause such harm to the children's ability to achieve their right to family reunification, and we give four recent examples from our work (see Annex).

Why these problems are so harmful to the children's rights

Problem (1): Length of time to process asylum claims for unaccompanied refugee children

On 27.9.16, Politiken reported that almost 100 unaccompanied refugee children had been waiting almost a year for their asylum cases to be processed

<http://politiken.dk/indland/article5637440.ece> This is despite the fact that Denmark has its lowest immigration figures in 5 years, and the US has 120 new caseworkers. According to the authorities' own guidelines (https://www.nyidanmark.dk/en-us/coming_to_dk/asylum/unaccompanied_children.htm), unaccompanied refugee children ought to be processed faster than other asylum seekers, but we question whether this is actually happening. As of September 2016, the US had a total of 450 children awaiting a decision on their case.

The long wait for an asylum decision also has a direct impact on whether unaccompanied children end up being able to make a successful claim for family reunification, as the older they get, the less likely they are to be allowed to have their family join them in Denmark. So a speedy asylum decision is crucial.

Problem (2): Many unaccompanied refugee children are not receiving necessary help to make family reunification applications effectively

Unaccompanied refugee children who have been granted asylum status in Denmark have the legal right to make an immediate claim for family reunification: ie, that certain of their close family members (usually their parents and younger siblings) can come to Denmark to join them. We have evidence from our advisory work that many unaccompanied children or their day-to-day guardians are unable to make a properly completed application for family reunification, or submit it much later than they could, thus risking their success due to their rising age. This happens because the children lack the help that they need to complete the form and collect all the supporting evidence required. Ultimately, this means these children can effectively lose their right to family reunification.

It is crucial that, once they have their asylum status, unaccompanied children put in fully completed applications as soon as possible. This is because: first, the US usually takes many months to process an application; and secondly, timing is critical, because one of the deciding factors in the US' decision is the child's age. And the US does not 'stop the clock' at any point, so the older a child gets as the application process goes on, the less likely the US is to grant reunification. The US states that, in making the family reunification decision, it weighs the child's age at three points: age on arrival in Denmark; age when applying for family reunification; and age when a family reunification permit might be given. In practice, the chances of a child being permitted family reunification drop when he or she reaches around 15, and once children near 18, it is very unlikely.

Presently, it is typically Syrian children who seek to have their family join them in Denmark, and the US has recently established a practice for such decisions. The US' first 11 decisions can be read in anonymous form in this letter from the US of 10 May 2016 - <http://refugees.dk/media/1460/uui-svar-481-11-afgoerelser-umi-7-3.pdf>

Through our work, we have seen a number of cases where a child or guardian has not made the family reunification application correctly in the first place, and therefore the case can drag on for up to two years, thus greatly disadvantaging the child's chances of success.

We consider that the family reunification process is too difficult for children to complete adequately on their own, for these reasons: the forms are only in Danish or English, which very few refugee children speak well enough; some children have had little schooling even in their native language, due to living in war zones and refugee camps, and some are illiterate; we think the forms are long and difficult and require some bureaucratic skill to complete properly; the process demands many different forms of documents as supporting evidence, which must be obtained and, often, translated by an approved translator for a fee; and once an application has been filed with the US, a copy of it and all the supporting documents should be kept safe, and the case should be tracked and followed up.

All these steps take effort and resources which are not possible for a child alone, even the most competent ones. But the child has no right to a lawyer or skilled bureaucrat to fill out the long forms and submit the proper documents for them, nor to help with the high costs of translation (one case alone can cost several thousand kroner in translation fees). Therefore, the children depend on help from the adults around them, who are typically educators or social workers without understanding of the family reunification process.

It appears to us that the task of helping unaccompanied refugee children to prepare their family reunification forms has been delegated to the municipalities, but we do not know whether this delegation has happened formally or informally. We fear that many municipalities may not be proactive in this task, and/or may not be resourcing the task

adequately - for example, we know that some municipalities leave it to staff in the youth institutions who do not have the right skills. We are aware that some municipalities are trying to help as best they can, but are struggling to provide the appropriate level of time and expertise, which means many children are being failed. We also aware that most municipalities do not clearly understand what responsibilities they owe to these children, and that chains of accountability are not clear. Some municipalities may not be providing any help at all.

By failing to ensure advice and assistance to these children, we consider that the Danish State is making it extremely difficult for them to benefit from their rights.

Problem (3): The US takes a long time to process their family reunification applications

The US takes many months to process family reunification claims – the service goal for complicated cases (which these usually are), is 10 months, which starts when the US decides it has all the relevant information. And this is often the core of the problem: very often the applications and documents sent in from the children are not correct at first, and US needs to send requests for further information. This is so harmful for the child because, as explained above, the US does not stop the clock on the child's age at the time of his or her application. So the processing time may take the child to an age where the US is more likely to say the child is 'independent' and does not need his or her family members.

Problem (4): Once family reunification has been granted, the children do not have a right to help with travel costs and other fees, so in practice their family members cannot join them.

These costs include flight tickets, embassy fees, and sometimes extra visas and translation fees for their family's documents. Family members most often live in refugee camps or makeshift homes (eg, in Turkey, Lebanon, Jordan, Ethiopia) and have scarce income. A few municipalities pay all or some of the costs, but most do not. Often private friends of the child in Denmark have to try to find the money instead, or rely on charity (we at RW have been collecting money from private donors and have already supported two children to pay for flights, but our funding is not guaranteed). The result is that some children will face further delay before their family can join them.

What we think needs to be done

We consider that all of these issues require urgent action, as they often do great harm to the well-being of the children, delaying their right to have their family with them for a long period or even preventing them obtaining that right altogether. The Danish State remains the ultimate guardian of unaccompanied refugee children, and has a duty to ensure they can access their rights. We contend that all the issues we highlight in this letter undermine unaccompanied refugee children's ability to access their rights.

However, we suggest that you give particularly urgent priority to the problem of unaccompanied refugee children not receiving enough help to make family reunification applications effectively. We think that you may be able to make an impact quickly here, as it mostly concerns what happens at municipality-level.

In the light of our experience, we think that the task of completing and following up on family reunification applications should be a formal part of the work of each municipality and be done by skilled staff who are given sufficient time to do the task properly. The work of the

municipalities in this regard should be overseen by higher levels of government, to ensure that the duty of the Danish State as guardians of unaccompanied refugee children is being fulfilled. And the administrative chain of accountability and responsibility for helping children needs to be clarified.

We kindly ask you to investigate these matters, and we will be happy to help you in any way we can, for example in providing more case evidence or connecting you to people to interview, including from the municipalities.

Many thanks.

Yours sincerely

**Jessica Rayburn and Michala Bendixen,
Refugees Welcome / www.refugeeswelcome.dk / CVR 30774337**

Contact (in Danish also):

Michala Bendixen, mobil 5020 0069 / mail: mc@bendixen.nu

ANNEX: Four recent examples from our work helping unaccompanied refugee children.

Boy A, aged 16 now - family reunification application delayed because of lack of qualified help

A applied for family reunification and waited 6 months before the US replied that some documents were missing, so they could not process the application. The US gave a deadline of 4 weeks for submitting these further documents. But A's municipality did not help him with checking his e-boks and so they were unaware of this task until only 2 weeks remained before the deadline. As no-one had kept any record of A's application or copies of the documents that had been sent with it, RW had to apply for access to A's records, in order to find out which documents were missing. These documents took 9 days to arrive. In the meantime, all the municipality did was to simply submit all translated documents again. No one checked the documents or the translation before submitting them the second time. It transpired that the documents that had been sent for translation had been returned incomplete, as the page of the family book which contained information about A was missing, so it did not prove that A and his family were related. This was also so when the documents had been submitted the first time.

By the time a translated version of the missing page of the family book had been obtained, the US' deadline had passed. RW submitted the document to the US on 28.10.16, with a letter explaining the delay and asking the US to inform RW whether the case was now ready to be processed. RW followed up this request a week later. RW has yet to receive a reply. Therefore, A does not yet know whether the US considers his application is complete and will start processing his case. A was 15 when he arrived in Denmark and is now 16. He will likely turn 17 before the US makes a decision on his family reunification case, which will weigh against him receiving permission.

Boy B, aged 14 now - family reunification application delayed because of lack of qualified help.

B arrived in Denmark in December 2015. He is illiterate, including in Arabic. Although B has had asylum in DK for several months now, his family reunification form has yet to be submitted. B's daily guardian ('kontaktperson') in his care home has been tasked by the municipality with completing the form and assembling the evidence. The kontaktperson has a sincere wish to help the child. However, the kontaktperson has no experience with this and, in our view, which we have told to the municipality, he is clearly incompetent to fulfill this task. The kontaktperson consulted RW on a weekly basis for help, and RW has now taken over completing the application.

Boy C, aged 16 now - US delay in processing family reunification case.

Submitted his family reunification application on 24.2.16. After several requests to US for information on his case process, US informed us in September that his case was ready to start being processed. He has therefore waited 7 months for his case consideration to start, and that process will likely take several more months (service goal is 10 months).

Boy D, aged 17 now - US delay in processing family reunification case.

Was 16 when his family reunification application was submitted. He is now 17 and is still waiting for an answer from US, as to whether his case is ready for processing. He turns 18 in a few months and will therefore most likely get a rejection.