

SEPARATED CHILDREN IN EUROPE PROGRAMME
WORKSHOP ON AGE ASSESSMENT AND IDENTIFICATION

Bucharest, 20-22 March 2003

REPORT

by Kate Halvorsen

I OPENING OF WORKSHOP

Sergio Kristensen, Separated Children in Europe Programme (SCEP) Coordinator

This activity is possible thanks to the support given by Save the Children Sweden. This workshop is in line with the strategic approach of Save the Children Sweden in the region, namely to contribute to capacity-building of NGOs by supporting training, in this case on separated children in Europe.

The main objectives of the workshop are twofold:

- 1) Competence-building; to strengthen capacities on separated children related to age assessment and identification
- 2) Promote cross-border cooperation and a common understanding of the issues across borders

II INTRODUCTIONS AND EXPECTATIONS OF WORKSHOP

During the introduction of the participants, their expectations were presented in order to ensure a common and realistic approach during the workshop. The following expectations were noted:

- network and establish contacts
- share experiences
- increase knowledge about separated children
- increase knowledge of two main themes, age assessment and identification
- learn about good models and practices of age assessment and identification
- create awareness and promote changes in law and practice
- identify best practices in line with the Statement of Good Practice
- learn how to apply the benefit of the doubt

- discuss what we can do to protect separated children after the first identification and registration
- get tips on how to abolish age assessment in Romania
- get ideas about which issues to cooperate on between the three countries
- learn more about the cooperation between law enforcement and NGOs
- learn more about Scandinavian practices on age assessment and identification
- create a common understanding of how to deal with and tackle age assessment and identification and registration
- increased regional cooperation

III AGE ASSESSMENT

III.1 Practice on Age Assessment in Romania (see Annex 5)

Viorel Panaitescu, Forensic Institute in Bucharest

Age assessment of children, both Romanian and foreign, in Bucharest and the district of Ilov is undertaken at the Laboratory of Anthropology and Serology of the National Institute of Forensic Medicine, and children in the other parts of the country are assessed by the forensic institutes there.

According to Romanian Law children without any proof of their age have to undergo an age assessment and the results are given to the police or the courts.

The number of age assessments have been increasing the past few years due to the increase in the number of street-children. In year 2000 a total 250 age assessments were made; in 2001 a total of 538; and in 2002 the number was 300. During the first two months of 2003 there have been 55 assessments.

The Romanian method consists of anthropometrical exams, dental exams and radiological exams. The degree of precision of these three methods increases from the first to the second to the third, the third exam being the most precise.

1. Anthropometrical exams:

- weight and height of body as well as size of different parts of the body
- description of different signs like tatoos, old scars and cuts, anthroposcopic details of face and the head (hair, nose, head)

The result of this kind of examination is not sufficient to make an accurate age determination. Therefore, the following two methods have been added.

2. Dental exams:

Teeth appear at certain ages, eg. the temporary teeth appear between 6 months and 2.5 years. Loss of temporary teeth is between 6 – 12 years old. The third molar is an exception. The dental exam is more precise than the anthropometrical exam, but still does not provide an exact age.

3. Radiological exam:

This involves x-rays of limbs or other bones and is only done after the other two above exams have been done. Which bones/limbs are chosen for x-ray depends on the age-group a child belongs to. For instance, children between 1 and 9 can only have x-rays of wrists and hands taken; those between 11 and 13 have elbows and knees x-rayed; 14 to 16 year-olds have pictures of elbows and pelvis; while those over 16 have pictures taken of the two long bones in the legs.

III. 2 Questions and Comments to Presentation on Romania

- *How do you determine who should be assessed?*

All children without proof of age are sent for age assessment at the Forensic Institute, which is according to Romanian law. When it is obviously a small child, they do not undergo age assessment.

There was some disagreement among the Romanian participants whether the law requires all children without proof of identity or whether it requires age assessment of only those whose age is in doubt.

- *Who pays for these examinations and how much does it cost?*

The Government pays (MOI, National Office) for the age assessments. The cost was later indicated to be around 5 USD.

- *Do you know the nationality and ethnicity of the children you assess?*

The ethnic differences are not so great, but important. How serious can the differences be? Not so great, and it is not so important. But we have to check the results with the reference tables of other ethnicities.

- *Is there a possibility to dispute the result of the age assessment?*

This will be answered in group work.

- *Is it possible that a test result of a Somalian boy shows 20, but he is actually 16? Yes.*

III. 3 Presentation on Age Assessment in Bulgaria

In Bulgaria we do not have much experience with age assessment because there have not been many separated children before year 2000. We do not have a system of age assessment as such and do not do any medical exams. When a separated child is identified Dr. Kalcheva makes a psychological assessment of the child which includes age aspects.

A few years ago we were faced with this problem in the State Agency and we learned about SCEP. We decided to study the practices in other countries in Europe. We do not think that the methods used in Romania is appropriate for use in Bulgaria. The indexes are old and not updated for Bulgarian citizens; we have therefore decided not to use these methods. There are ethnic and anthropological differences which could be significant and in addition the methods are very expensive in Bulgaria. Furthermore, we expect that if we apply these methods it will be in contravention to international human rights. Another reason is that there are not many separated children in Bulgaria as it is considered a transit country only.

We base our policy on the principle of the best interests of the child. We had one case of a child who confessed that he was older than the age he claimed.

III. 4 Presentation on Age Assessment in Hungary

There is no law in Hungary that regulates age assessment during the asylum procedure, and it is not known exactly how many undergo age assessments and what the results are. However, there are cases and the methods include x-rays of bones, teeth examinations as well as an exam of sexual development. The results can only indicate whether the age is under 16 years of age or over 20. It takes about one month to get the results and the tests are very expensive, which is why not many are undertaken. An age assessment can be requested if the case-worker or the interviewer for the asylum application has doubts about the age of the child. If the child refuses, s/he will be considered an adult.

III.5 Background Material on Age Assessment

In order to give the participants some background material and more detailed information on age assessment two papers were presented and distributed. One was written for the Children First Project by Helena Ranta at the University of Helsinki, Finland on “Age Assessment of a Child” (see Annex 7); and the other was written by UNHCR staff member, Birgit Einzenberger, Vienna Austria, for the SCEP on “Age Assessment” (see Annex 6).

III.6 Theory and Best Practice on Age Assessment

Kate Halvorsen, Consultant

This presentation partly draws on the article written by Birgit Einzenberger (see Annex 6).

• International Standards

There are two sets of international standards that are most relevant when dealing with separated children seeking asylum in Europe, namely UNHCR guidelines and the Separated Children in Europe Program (SCEP) Statement of Good Practice.

1) UNHCR

“If an age assessment of the child’s age is necessary, the following considerations should be noted:

- a) Such an assessment should take into account not only the physical appearance of the child but also his/her psychological maturity.

- b) When scientific procedures are used in order to determine the age of the child, margins of error should be allowed. Such methods must be safe and respect human dignity.
- c) The child should be given the benefit of the doubt if the exact age is uncertain.

.....The guiding principle is whether an individual demonstrates an ‘immaturity’ and vulnerability that may require more sensitive treatment.”

(UNHCR Guidelines on Policies and Procedures in dealing with unaccompanied children seeking asylum, paragraph 5.11)

2) Statement of Good Practice

“If an age assessment is thought to be necessary, it should be carried out by an independent paediatrician with appropriate expertise and familiarity with the child’s ethnic/cultural background. In cases of doubt there should be a presumption that someone claiming to be under 18 years of age, will provisionally be treated as such. Examinations should never be forced or culturally inappropriate. It is important to note that age assessment is not an exact science and a considerable margin of error is called for. In making an age determination separated children must be given the benefit of the doubt.”

(Statement of Good Practice, paragraph 6)

- **Why Age Assessment?**

It is important to note that age assessments should only be undertaken **in cases of doubt**. In such cases it is necessary to determine the correct age of a person for the following reasons:

- purposes of identification (tracing, interview and determination of asylum application, family reunification, etc.)
- to provide an age-appropriate reception for the person in question
- to provide age-appropriate reception for the other children
- to prevent abuse (in cases where they claim to be older than they are as well as in cases where they claim to be younger than they are)

- **Present Practice in Europe**

Practice varies a great deal from country to country in Europe. Information available indicates that no country has laws and practices fully in line with international standards. However, the following countries are considered to have practices which are partly in line with these standards.

Several countries do not or very seldom apply an age assessment: Bulgaria, Denmark, Czech Republic, Greece, Ireland, Latvia, Lithuania, Luxembourg, Slovakia and Norway until just recently.

In Germany and Austria age assessment used to be undertaken with x-rays, a practice which was discontinued due to the high unreliability of the tests. Present practice is a type of inspection through a meeting/interview with government officials either from the health sector (Austria) or the Aliens authority (Germany)

In Sweden a lot of work has been done recently to improve the age assessment procedure and it is now supposed to combine three methods: x-rays of bones, dental examination and a psycho-social assessment. In the case of very young children they should not apply the x-ray. The two physical tests (x-ray and dental test) have 1.5 years' margin of error and the lowest end of the age margin should be chosen. However, in practice the psycho-social assessment is still not being implemented.

In the UK the Home Office states that the benefit of the doubt should be applied more liberally than when dealing with an adult and recognizes that age assessment is an inexact science and that the margin of error can be substantial, sometimes by as much as two years either side. Age disputes are referred to the Refugee Council and a social worker's assessment is included in the subsequent consideration.

In Norway a lot of work has been put into establishing an age assessment method which is in line with the above international standards and it will be similar to the Swedish method combining a physical exam with a socio-psychological assessment. As noted above, in Norway it was only decided recently to introduce age assessment. Social workers in reception facilities for separated children had noticed that some of the 'children' were obviously older as they did not want to follow the programs activities and rules specially designed for children. The problem was not only that persons claimed to be **younger** than they were; but also that some claimed to be **older** than they were, for example girls who did not want to live in centers/units for separated children.

- **The Various Methods**

A variety of methods are in use to make an age assessment, which have been grouped in the following four types.

- 1) Assessment of Bone-Age

- The Greulich-Pyle method

This method is based on x-rays of the hand and wrist which are compared to a reference atlas. The reference atlas was established by Mr. Greulich and Mr. Pyle in a 1935 study of upper-class US-Americans of European origin in order to determine pathologies in growth. This study was not made to evaluate age and did not take inter-racial differences into consideration. Critics point this out and state that it is highly unreliable and should have a margin of error of 18 months. Although several countries which have previously used this method have discontinued (e.g. Germany, Austria, Switzerland), this method is still used in several European countries, such as Belgium, Finland, Lithuania and France.

In England, the Royal College of Radiologists in London advised its members that it is inappropriate' to undertake an x-ray for the purposes of age estimation.

In Switzerland the Swiss Asylum Appeal Commission decided in September 2000 that radiological assessment has a limited reliability as it does not take into account the differences in skeletal development according to racial and ethnic background.

In Germany methods involving x-ray technology are no longer official government policy and in Austria, the use of radiographic examinations for non-medical purposes was forbidden until recently.

- The TW-2 method by Tanner and Whitehouse

This method is based on the assessment of skeletal maturity and prediction of adult height and is, for example applied in Belgium. Each of the 20 bones in the hand is individually compared with a series of pictures of the ossific development of that particular bone. The reference standards which are used were established in the 1950s and 60s and is therefore, to a certain extent, outdated as it is a wellknown fact that bone maturity is reached sooner now than four or five decades ago. Furthermore, it may depend on ethnic origin, nutritional habits and other individual factors which are not taken into consideration in this method. Helena Ranta, a wellknown forensic scientist at the University of Helsinki, states that this method is no longer applicable for persons who are older than 16 years of age. Other scientists have concluded that this method is highly unreliable because it does not take into consideration differences in ethnicity and race and that it is more unreliable for older groups, ie. 15-18 years of age.

2) Physical Measurements

This is an examination of height and size of a person compared to reference tables, so-called anthropometric measurements.

These examinations have also been highly criticized because they do not take variations according to ethnicity, race, nutritional intake and socio-economic background into consideration. The reference tables are 35-40 years old and no longer correspond to the size of people living in Europe today. Adolescents today are on average bigger than their parents. No country utilizes this method in isolation; however, a few use it in combination with others, such as Romania and Sweden.

3) Dental Age

This method seems to always be done in combination with other methods, such as in Sweden and Austria. Different methods are used, but it usually involves counting the number of primary or permanent teeth; the existence of wisdom-teeth; and studying the mineralization of the teeth.

Critics, such as the German Association of Forensic Medicine and researchers in Sweden, Finland, France and the USA, state that the development of teeth depends on the environment, nutrition, as well as ethnicity and race. They therefore find this method highly unreliable for assessing age.

4) Inspection and Interview

This is a method which has been developed as some countries have abandoned the above physical test methods, such as in Germany, Austria and to a certain degree in England.

It involves an assessment which is done during a conversation or interview with the person where no physical test is made; but rather an overall assessment whether the person is over or under 16 (Germany) or 18 years of age.

This method can obviously be criticized for its arbitrariness and that it is not applied in a more scientific and systematic manner.

- **Conclusions**

- Age determination by existing methods is not an exact science, only qualified guessing.
- There is no existing practice which is fully in line with international standards.
- The result of an age assessment is crucial for a child.
- The most important aspect of an age assessment is to identify those who because of their immaturity and vulnerability need special attention as children.
- How to determine age assessment procedures more in line with international standards?

III.7 Group Work on Age Assessment

All three groups received the same tasks and the following is a summary response to the questions.

Question 1: *What are the limitations and problems related to age assessment?*

- a multi-disciplinary approach is missing
- lack of necessary number of qualified personnel working with age assessment
- too short time-period to assess the child
- margin of error is too short (only 6 months is too short, as in Romania)

Question 2: *Are there discrepancies between age claimed and results of age assessment?*

- not enough information from the different countries
- the fact that in Romania the past couple of years around half of those identified as separated children have been determined to be adults by the age assessments, should be noted here
- In Bulgaria, two different methods are used: one is an analysis of the speech of the child, the appearance, behaviour, intellectual development and the other is a general assessment of maturity during the interview. The child is always given the benefit of the doubt. Therefore, it is believed that the conclusions reached about the age is sound; and accordingly, that there actually **is an age assessment in Bulgaria.**

Question 3: *when someone refuses age assessment, what happens?*

- in Romania it's not possible to refuse
- in Hungary they will be treated as adults, if they refuse
- not applicable in Bulgaria

Question 4: *When a dispute arises from the results, how would it be resolved?*

- In Romania, the Court can be requested for a new age assessment, but a new assessment will be done by exactly the same body (ie. the Forensic Institute). In Hungary, UNHCR can be requested to assist with the case. In Bulgaria it is not known, as there is no such case.

Question 5: *How to improve age assessment procedures?*

- create multi-disciplinary age assessment groups/committees/panels
- establish an independent body to deal with disputes
- establish Clearing Centers (however, is an age assessment in the Clearing Center realistic?)
- assessment procedures only to be done when deemed necessary – when there is **doubt** about the age
- training workshops, technical training of staff
- improve national and international legal standards
- need for training on how to do the psychological assessment of maturity – participants from Romania and Hungary would like to learn from the Bulgarian method of socio-psychological assessment
- need to address the problem of interpretation during age assessments
- legislative changes are needed to reflect the international standards
- sharing of best practices between countries is necessary

IV IDENTIFICATION

IV.1 Presentation on Identification in Bulgaria

Vera Zaharieva, State Agency for Refugees

According to the recent new asylum law, two new transit centers are in the process of being built which will be under the auspices of the State Agency for Refugees, which is the government body responsible for asylum and immigration affairs and attached to the Council of Ministers. One is near the Sofia airport and one near the border. Identification should be done in these two transit centers. Before the new law, identification has been done by border police at the border. However, in the new system identification and registration will be the responsibility of the State Agency for Refugees and done by a specially trained and qualified interviewer – Dr. Kalcheva.

During the first interview biographical data (biodata) are registered. In the case of separated children, the circumstances in which separation has taken place and family information are also taken down. After registration, the file of the separated child is sent to the Refugee Agency, not to the reception center (which happens in adult cases). It is the responsibility of a special unit which deals with special needs cases. Immediately after identification, the separated children will be sent to one of the transit centers and then subsequently to the Refugee Agency's reception facilities.

In Bulgaria all of separated children have so far arrived illegally (ie. without valid and proper identification travel and ID documents); most of them are in transit; most of them are smuggled; and more than 50 percent disappear before the procedure is finished. In 2002 there were 103 asylum applications from separated children, but most of them were closed because of disappearance before the final decision, usually after one month or so. The procedure should take no more than 3 months according to the law, but practice varies. The NGO Helsinki Committee represents all separated children in the courts.

Accelerated procedures take place at the transit centers and every application starts in accelerated procedures. Accelerated procedures is supposed to last no more than 72 hours, which is the time they stay in the transit center. The transit centers are closed.

Fingerprinting is planned to take place; photographs are taken already as well as medical exams. Then an ID-card is provided when they leave the transit center.

IV.2 Presentation on Identification in Hungary

Separated children showing up at the border are sent to Budapest registration center to register biodata where they subsequently are provided with an ID-card. Decision on the asylum application must be made within 60 days, but in reality it might take a longer time. Separated children are placed in reception camps/facilities for asylum-seekers and refugees. However, first of all, separated children along with all other asylum-seekers have to go to a quarantine where they stay for around one month while a medical check is undergone. It is a small, closed area within the reception facility, but has nothing to offer of activities and services, only the basics.

One big problem related to identification and registration is the fact that separated children seldom tell the truth about their identity and their story.

Question: *would Save the Children Alliance be interested in training in interviewing techniques - how to get the true stories/identities from children and adolescents?* One agency should do expert training on interviewing and assessing credibility.

Question: *The quarantine: how many medical cases justify the quarantine?* There are actually very few of the asylum-seekers who are found to have serious illnesses and therefore the quarantine is **not** justified.

IV.3 Presentation on Identification in Romania

No separated children have applied for asylum at the border. All applied at the reception center where they fill in a form with basic biodata. They are then issued a temporary ID. They used to be placed in institutions for Romanian children, such as orphanages. Now there is a new reception center where separated children are placed, although it is not exclusively for separated children. After the age assessments are completed guardians are appointed from Save the Children. They are counselled about the legal procedure, age assessment, and the interim care arrangements. The asylum interview is done by the National Refugee Office

with the guardian and legal representative present. If the child is rejected, according to the law s/he has to leave the country within 15 days and should be taken into custody during the meantime; however, in reality none have so far been taken into custody. At this point, that is after the final rejection, they are no longer the responsibility of the Refugee Office, but rather the Aliens Authority.

IV.4 Theory and Best Practice on Identification

Kate Halvorsen, Consultant

- **International Standards**

International standards on identification can be found in UNHCR Guidelines and in the SCEP Statement of Good Practice.

1) UNHCR:

"Specific identification procedures for unaccompanied children need to be established in countries where they do not already exist. The main purposes of these procedures are two-fold: first, to find out whether or not the child is unaccompanied and second, to determine whether the child is an asylum seeker or not." (1997 Guidelines, paragraph 5.1)

2) Statement of Good Practice:

"At ports of entry immigration authorities should put in place procedures to identify separated children. Where children are accompanied by an adult, it will be necessary to establish the nature of the relationship between the child and adult. Since many separated children enter a country without being identified as 'separated' at ports of entry, organizations and professionals should share information in order to identify separated children and ensure they are given appropriate protection." (SGP 2)

- **Some important points**

- identification should be done immediately upon arrival
- should be done by qualified personnel (importance of training and educational qualifications)
- assessment should be done of the nature of the relationship between accompanying adult and child
- identification should be immediately followed by referral to relevant and appropriate temporary or permanent reception facility
- those identified should be immediately registered in (central data-base) containing the necessary bio-data

- information should follow separated children when moved to different care institution/home

- **Why is identification so important?**
 - to prevent high risk of trafficking and other forms of abuse
 - to get them into a stable and caring environment as soon as possible to prevent further damage
 - to prevent the children from moving on from country to country and thus becoming increasingly at risk
 - in order to start tracing of family as soon as possible

- **How do we identify – Identification procedures**
 - countries have varying practices, as exemplified below
 - normally at border points by border officials or police
 - can also be done in-country after the child has stayed there for a while
 - bio-data is taken down and registered

The following are some **examples of best practices on identification in Europe** today.

Nordic countries, Austria, Germany, Switzerland, the Netherlands, UK, Ireland, Hungary: Separated children are identified at border points and subsequently registered. Relevant data on the children, their families and their circumstances is recorded and updated regularly.

In the Netherlands, separated children who apply for asylum are taken to a registration centre and the Immigration and Naturalization Department (IND) identifies and registers the bio-history and tries to identify the travel route of the child through a preliminary interview. Photographs are taken as well as fingerprints if the child is over 15. Nidos, an independent national organization responsible for separated children under 15 years old, then interviews the child and registers his/her social background. This registration interview is different from the asylum interview and is considered necessary to provide appropriate and adequate care.

In Sweden, during the first contact with the child, certain basic information is collected and the child is photographed and fingerprinted in the case of those who are over 14 years of age. In this first period, case-workers are primarily interested in determining the identity of the child, the travel route and to get the necessary information about the child's family and family

situation both in Sweden and country of origin. The Swedish Immigration Board's guidelines are based on UNHCR guidelines.

Sweden has an approach where the first and basic information is collected over time (several weeks) as it is difficult to get the correct information on the identity, family and story of the child.

In Spain and Italy legislation obliges that separated children are reported either to the authorities (in the case of Spain) or to a specific committee (Italy).

In Bulgaria, Czech Republic, Slovakia, Slovenia and Romania there is a twin-track strategy whereby a restricted border-interview (for biodata) is followed by a longer meeting where the complete social history is taken down.

- **Related Issues and Problems**

- difficulties in establishing identity

As most children travel without any identity papers or with false ones, and furthermore do not want to disclose their real identity and story, it can be a very difficult and long process to get the actual identity of the child.

- unknown/undocumented cases

There might be high numbers of undocumented cases in some countries, which is of great concern. This is especially likely in Central Europe which is a transit area. These children probably do not receive the necessary attention and protection.

- disappearances

A recent trend in Central and Western Europe is the increasing numbers of disappearances from reception centers, from group homes, from other child-care institutions shortly after arrival (especially in Scandinavian countries and Central European countries as well as UK, Belgium, Austria). If children are properly identified, registered and referred to appropriate facilities, then it is easier to trace them when disappearing. Border officials have, not only an important duty to identify and register separated children upon arrival, but also an important role to identify and register disappearances so that it is possible to trace the children wherever they go. Presumably some of the children disappear across border points where they arrive.

- trafficking

There is serious concern that those who disappear are at great risk of being trafficked or otherwise abused. Trafficking in human beings, in particular women and children, has also been increasing in Europe recently and many states have adopted measures to fight this phenomenon. We do not know the extent to which separated children have been and are trafficked, but have some indications, eg. a study in Belgium by the NGO Child Focus. It is believed that this phenomenon occurs mostly in some countries, such as the Netherlands, Belgium, Italy, Spain, Central Europe. Again, border and other officials

have an important role to play in identifying whether the child has been trafficked upon arrival (for example, in analyzing the nature of the relationship between the accompanying adult and child) or upon departure.

- detention

In some countries separated children are often detained upon arrival and consequently, are not necessarily identified and registered. Immediate identification, registration and referral might help to prevent separated children from being detained upon arrival. It is believed that children are detained upon arrival because border officials are not sufficiently aware of the appropriate treatment of separated children. If they are aware, they might rather identify and register them and then refer them to the appropriate facility.

- family tracing

A proper identification and registration is vital for a family tracing to commence. If a child is not identified properly as separated, tracing initiatives will not be taken. One of the most important actions taken on behalf of separated children is tracing; for the purposes of establishing family contact, for the possibility of family reunion, and to be able to make decisions which are in the best interests of the child in the long term.

- lack of statistics

Until 2001 there were no collated statistics on separated children at European level. Without proper identification and registration in central data-bases, statistics cannot be made. UNHCR made effort to collect data and as late as year 2000 there were several countries in Europe which stated that they did not have collated statistics, for example Germany, Italy, Spain. It's important that any movement of the child out of the asylum-procedure and out of the country is immediately recorded.

IV.5 Group Work on Identification

Question 1: *Give examples of concrete cases and describe each step of the identification procedure.*

- Romania: biodata, fingerprints, photographs, ID is issued. Age assessment is conducted, if under 18, they are appointed a guardian, and the asylum procedure can start. It is conducted in the presence of a guardian and lawyer.
- Bulgaria, has the same system but without the fingerprinting.

Question 2: *Is it difficult to identify separated children?*

- Yes, it is difficult in all countries. The biggest problem is that the child gives incorrect or false information. Another problem is if the child is accompanied by an adult; it is difficult to assess the relationship, especially when the adult intervenes and interrupts.
- Insufficient and unreliable data.
- Lack of trust between child and official.
- Bulgaria: lack of translators, qualified personnel, id-documents

Question 3: *Are there any procedures to assess the relationship between adult and child?*

- The best way is to organize separate interviews with the child and accompanying adult. The atmosphere during the interview should be child-friendly.
- Interpreters should be qualified and specially trained.
- The accompanying adult could be appointed as guardian if the relationship is good.

Question 5: *Do you think your system of identification is adequate?*

- Yes, the system is working relatively well in all three countries; we cannot be too demanding of an imperfect system.
- There was then a discussion to which extent to accept imperfect systems.

Question 6: *What needs to be done to improve the identification procedure?*

- need to have good contacts within the region of Central Europe.
- need for qualified and skilled staff dealing with identification of separated children.
- establish clearing centers.
- improved exchange of information.
- need data-base and strong computer system to facilitate exchange of information.
- need for training of border-guards.
- need for training and qualified personnel and need exchange of information between the countries.

V RECEPTION

V.1 Presentation on Reception in Hungary

Julia Demeter, Oltalom

In Hungary the first specialized Reception Center for separated children is in the process of being established in the town of Bekescsaba. It will be run by the NGO Oltalom, which also has developed and presented the plan to the government and donors. The center is planned to be opened in April if funding comes through. Until now the present system was such that those who were under 14 years of age have been the responsibility of regional child-care authorities and placed in child-care institutions for Hungarian children; while those who were 14 and above have been placed in reception centers for adults where there was no special treatment of separated children.

The main objective of the new center in Bekescsaba is to provide specialized protection and care for separated children seeking asylum in Hungary.

It will be organized similar to a boarding-school with 4 meals per days, leisure time and compulsory activities as well as attending normal, national school. They will try to keep siblings together and they will try to enable the children to keep their mother-tongue. They will be organized into 4 different units with 7 children per unit. Each unit will have a group leader and a social worker. They can stay in the center until they reach 18 years of age. Vocational and other types of training will be offered as well as health-care and medical checks. Oltalom will cooperate with Red Cross, IOM, UNHCR regarding family tracing and reunification. Attending normal school will be compulsory between 8-13 and familiarization

with latin alphabet will be organized for those in need. Hungarian and English will be compulsory. The manager of the center will be the formal guardian for the children. Leisure activities will include sports, cooking, sewing, crafts, camping at lake Ballaton, among others. There will be an agreement with the counselling center for victims of torture, "Cordelia" in Budapest, for psychological treatment/counselling if needed. The children will be encouraged to participate in decisions about their future.

The premises used to be an old creche which was totally rehabilitated by the US Army. It's rented from the municipality for 5 years, but Oltalom hopes it can eventually be bought from the local authorities. During the planning period last year, there were initial protests from the community against establishing the center based on fear and resentment as well as racist attitudes. There is a big problem regarding the funding for the center, which still has not been solved. The provision for such a center is in the new amended asylum law, but the government has so far not provided the necessary funding for the running costs. They might pay 5 Euro per day per person – compared to 100 Euro in Austria; however, this is not enough to keep the center going. Oltalom has received funding from the European Delegation for leisure activities (7.5 million Forint). In addition Oltalom will put some of its own funding into the project.

The first 27 children will be selected by the government refugee agency (OIN) on a first – come-first-serve basis.

V.2 Plenary Discussion on Reception

A plenary discussion followed on the issue of reception and it was based on three questions posed to the participants.

Question 1: *Why is specialized reception important in relation to the two main themes of the workshop?*

- Romania: have had a lot of discussion in the Task Force about accommodation of separated children and a specialized center. Have heard about the center in Austria and thought it would be great to have such a center, but funding is a huge problem. NGOs in Romania do not get funding from the government and therefore it is very difficult. If there is a specialized center for separated children, age assessment will be easier to deal with. It will be easier to organize multi-disciplinary care.
- Disappearance and trafficking might be prevented to a greater extent if such specialized centers exist.
- They are important for personal security reasons.

Question 2: *Do you think the existing reception facilities in your country are sufficient?*

- Romania will consider the EU Directive on Reception and see if it will be necessary to establish a center for separated children.
- Bulgaria is thinking about establishing a Clearing Center, but funding is a problem and it is therefore very uncertain.
- No; there should be study visits to the center in Hungary; training on the issue; and clearing centers should be established.

Question 3: *Is it realistic to duplicate good models of reception from other countries?*

- Another model gives lots of ideas; but it's not possible to make a complete duplicate because each country has its own laws, regulations, systems. It also depends on the numbers of separated children. Models are good to take into consideration, but not to be copied. They can inspire and they can be adapted to the reality of the country.
- The Danish model – creating fosterhomes for separated children was not as successful as expected. They were given the opportunity to live within their two cultures, but they became confused between the two cultures which resulted in various problems.

VI ACTION PLANNING

The last day was divided into two sessions on action planning; one session for national planning and one session for regional cooperation.

VI.1 National Plans

The following plans of action were made by the participants for each country:

a) Bulgaria

- Organize a meeting/seminar for the Working Group on Separated Children on the themes of age assessment, identification and reception.
- Training of border police officers on age assessment methods.
- Training of officials who do registration and interviews as well as interpreters on the theme of age assessment methods.
- Organize a meeting/seminar on age assessment with border police, registration and interview officials as well as interpreters.
- Organize a seminar/meeting on identification with border police, registration and interview officials as well as interpreters.
- Establish a specialized children's section in the State Agency for Refugees as a first step towards building a specialized reception center.
- Investigate and study the possibilities for building a clearing-center for separated children in Bulgaria.

The Helsinki Committee and the State Agency for Refugees will be responsible for initiating and carrying out the activities during 2003, and the activities will be reviewed by a report or evaluation.

b) Hungary

- Make a standard procedure for age assessment based on best practice together involving OIN, border guards, doctors, NGOs. OIN and NGOs will be responsible for this activity.
- Trainings, study visits, supervision. OIN will be responsible.
- Training for interpreters. Menedek will be responsible.

- Establishment of a Clearing Center for separated children in Bekescsaba (including Hungarian language course, English course, psycho-social support and treatment, family tracing and reunification, sports events, integration activities). Oltalom, OIN, Cordelia Foundation, UNHCR, Red Cross, will be involved in various activities.
- Establishing and maintaining contact with other Hungarian NGOs. Oltalom will be responsible.
- Assess maturity and mental development in age assessment and establishing other ways of assessing age, such as through drawing.
- Establish a Refugee Children Council. Oltalom will be responsible.
- Organize training course for teachers on refugee matters in general and on separated children issues in particular. Menedek will be responsible and it will be held 31 September 2003.

All the activities are planned for 2003 and onwards, and progress will be reviewed at meetings or seminars.

c) Romania

- Enlarge the Task Force on Separated Children to include representatives from the Border Police and the Aliens Authority. Include age assessment, identification, reception as priorities in workplan for 2003.
- Conduct a gaps analysis and update of the Country Assessment where age assessment, identification and interim care (ie. reception) are the focus.
- Awareness-raising and mainstreaming of separated children protection issues in non-UNHCR training.
- Lobby for legislative amendments as identified in the gaps analysis.

All the activities will be the responsibility of the Task Force and the enlargement of the Task Force will be initiated by UNHCR which will take place in May 2003. The other activities will happen by the end of 2003. Progress on all activities will be reviewed at Task Force meetings and by participation in training session(s).

VI.2 Plans for Regional Cooperation

- The representatives from Bulgaria and Romania suggested that study visits to the reception center in Bekescsaba, Hungary, should be organized for a number of participants from the government, NGOs and UNHCR in order to learn and facilitate the establishment of similar centers in their own countries.
- It was suggested that one way of sharing information between the three countries could be done by including it in the UNHCR SCEP Newsletter. Information should be sent to Sergio Kristensen, SCEP Coordinator, who will forward it to the UNHCR Senior Advisor on Refugee Children in Geneva.
- In order to enhance the information-sharing on the subject-matter of this workshop, the report should be posted on the SCEP website (www.separated-children-europe-programme.org)
- There should be a link from the SCEP website to the Competence Development Network Programme: www.cdn.net

- The possibility to establish a common database on separated children for the three countries (possibly others) should be explored.
- Regional training seminars for border police, asylum authorities, NGOs and UNHCR from the three countries should be organized. Julia Demeter, Oltalom and Liliana Ionescu, UNHCR, will explore the possibility for UNHCR regional persons in Budapest to take over the responsibility for this.
- It was suggested to organize study visits, not only to Hungary, but also to other countries in the region and in Western Europe to learn about specialized reception for separated children as well as learn and discuss other issues.
- Furthermore, it was suggested to establish a Sub-Regional Task Force on the issue of separated children, which the NGOs will be responsible for initiating. It will meet three times a year and could be modelled on the Romanian Task Force. Funding is needed and possibilities for funding will be explored by the end of May. The European Delegation and the Stability Pact are possibilities. The Task Force itself as well as UNHCR will be responsible for reviewing the progress.
- A sub-regional comparative study on the issue of separated children should be undertaken under the auspices of NGOs, UNHCR and governments. It should start in 2004 and the result will be measured by the publication itself.
- Cross-border training, seminars, workshops and visits should be organized continuously and as appropriate.

VII CLOSING

Throughout the workshop there was high participation and interest, something which was also reflected by the comments in the workshop evaluations. It was clear that the participants found the workshop useful for their work both in terms of the cross-border sharing of information and experience and learning more about the three topics which had been chosen for more in-depth scrutiny. The high level of participation and commitment of the participants is clearly shown in the number and types of activities suggested both at the national and sub-regional level.

It is clear that staff working for NGOs, authorities and the UN in other countries in the region would benefit greatly from similar event(s). However, the selection of the country of venue should be done carefully, as should the selection of participants. Future similar workshops should be held in country(ies) where they have some experience dealing with separated children and the issues involved, and participants should be invited who have actually been dealing with the children and the issues either in practice or in developing policy and legislation.

VIII ANNEXES

ANNEX 1

Separated Children in Europe Programme
Workshop on age assessment and identification
20 – 22 March 2003, Bucharest

Agenda

20 March

Arrival of participants

- | | |
|---------------|--|
| 13.00 – 14.00 | Lunch |
| 14.00 – 14.15 | Opening of the Workshop and presentation of the Separated Children in Romania Programme
Speakers: Mr. Sergio Kristensen, Programme Coordinator and Mrs. Gabriela Alexandrescu, Executive President, Save the Children Romania |
| 14.15 – 14.30 | UNHCR Mandate on Separated Children's Issues in Romania
Speaker: Mr. Yoichiro Tsuchida, UNHCR Representative |
| 14.30 – 14.45 | National Refugee Office Achievements in terms of separated children seeking asylum in Romania
Speaker: Mr. Vasile Dragoi, Chief of the National Refugee Office |
| 14.45 – 15.00 | Expectations and objectives of the workshop |
| 15.00 – 15.20 | Practice on age assessment in Romania
Speaker: Dr. Viorel Panaitescu – Forensic Institute |
| 15.20 – 15.40 | Comments on age assessment in Hungary and Bulgaria |
| 15.40 – 16.10 | Coffee break |

- 16.10 – 16.30 Trainer presentation – theory and best practice on age assessment
Speaker: Kate Halvorsen, Consultant
- 16.30 – 17.30 Working groups – discussions on the practice described
- 17.30 – 17.45 Evaluation of the day
- 19.00 Dinner at Nicorești Restaurant

21 March

- 09.00 – 10.00 Group reporting and discussions on age assessment
- 10.00 – 10.30 Conclusions on age assessment
- 10.30 – 11.00 Coffe break
- 11.00 – 11.20 Practice on identification in Bulgaria
Speaker: to be decided – it should be the authority responsible
- 11.20 – 11.40 Comments on identification from Romania and Hungary
- 11.40 – 12.15 Theory and best practice on identification
Speaker: Kate Halvorsen, Consultant
- 12.15 – 13.00 Group work on identification
- 13.00 – 14.00 Lunch
- 14.00 – 15.00 Reporting and discussions
- 15.00 – 15.30 Conclusions on identification
- 15.30 – 16.00 Coffee break
- 16.00 – 17.30 Working groups and plenary discussion on reception
- 17.30 – 17.45 Evaluation of the day

22 March

9.00 – 11.30	Planning sessions in groups <ul style="list-style-type: none">- Action planning at country level- Sub-regional cooperation
11.30 – 12.00	Coffee break
12.00 – 12.30	Reporting and discussions
12.30 – 13.00	Evaluation and closing of seminar
13.00 – 14.00	Lunch

ANNEX 2

SEPARATED CHILDREN IN EUROPE PROGRAMME Workshop on age assessment and identification 20 – 22 March 2003, Bucharest

List of participants

BULGARIA

- Antoaneta Sabeva, Bulgarian Helsinki Committee – peregrine@aster.net
- Valentina Boeva, Bulgarian Helsinki Committee - peregrine@aster.net
- Vera Zaharieva, State Agency for Refugees – vera_zaharieva@abv.bg
- Daniela Siniobrudska, State Agency for Refugees – arint@spnet.net
- Dr. Stoika Kalcheva, State Agency for Refugees – arint@spnet.net
- Kapka Komitska, State Agency for Refugees – arint@spnet.net

DENMARK

- Sergio Kristensen, Save the Children Denmark – sk@redbarnet.dk

HUNGARY

- Magdolna Gacser, Menedek – Hungarian Association for Migrants – GACSER@PANDY.HU
- Andrea Kalmar, Menedek – Hungarian Association for Migrants – KALMARA@MENEDEK.HU
- Julia Demeter, Oltalom Charity Association – oltalom@oltalom.hu

LITHUANIA

- Birute Jureviciene, Save the Children Lithuania – gelbvaik@takas.lt

NORWAY

- Kate Halvorsen, trainer – kate.halvorsen@broadpark.no

ROMANIA

- Liliana Ionescu, UNHCR – IONESCU@unhcr.ch
- Monica Bizau, ONR – onr@pcnet.ro

- **Bogdan Budeanu, General Inspectorate of Border Police – covasna07@hotmail.com**
- **Cristina Bunea, Romanian National Council for Refugees – bunea@cnrr.ro; crybunea@gmx.net**
- **Gabriela Alexandrescu, Executive President, Save the Children Romania – rosc@mb.roknet.ro**
- **Gabriela Drobu, Save the Children Romania – rosc@mb.roknet.ro**

SWEDEN

- **Eva Larsson Bellander, Save the Children Sweden – eva.larsson-bellander@rb.se**

SEPARATED CHILDREN IN EUROPE PROGRAMME

ROMANIA

by Gabriela Alexandrescu, Executive President of Save the Children Romania

Ladies and Gentlemen,

First of all, I would like to thank all of you for your presence here today and to welcome the ones come from Bulgaria, Hungary, Lithuania, Sweden and Denmark. I hope that this workshop will develop a closer co-operation in the region and I am certain that no one will leave without having learned challenging information in the field age assessment and identification of the separated children seeking asylum.

Allow me to brief you, in the next minutes, the main achievements and activities on separated children's issues, since Romania joined the Separated Children in Europe Programme in the year 2000.

The main achievements are:

- The elaboration of the Country Assessment
- The translation of the Statement of Good Practice
- The organisation of the first National Training of Trainers
- The organisation of a Training for Future Guardians
- The participation at the foundation of the National Task Force

It is essential to mention that all these could not have happened without the support and co-operation with UNHCR, National Refugee Office and other Governmental and Non-Governmental bodies involved in the field.

In terms of main activities, I would like to mention only a few of them:

- Recommendation of guardians for all separated children seeking asylum in Romania
- Concluding co-operation agreements with the National Refugee Office for the assistance of separated children on annual basis
- Providing social counselling for all separated children
- Organisation of extra-curricular activities
- The publishing of a colouring book distributed to 1,200 Romanian children attending five schools in Bucharest
- Lobby and advocacy when needed

Taking into account that I have talked earlier about the existence of a Task Force, may be it is the right moment to name the members: UNHCR, UNICEF, IOM, National Refugee Office – Ministry of Interior, National Authority for Child Protection and Adoption, Local Court sector 2, Guardianship Authority sector 2, National Romanian Council for Refugees, ARCA, Save the Children Romania.

In the year 2003, Save the Children will continue these activities and starting with April will initiate a project on special activities for separated children seeking asylum in Romania. The project is a joint co-operation with the National Refugee Office, through which will be organised activities for separated children like:

- Cultural orientation sessions
- Computer courses
- Photo courses
- Psychological and social counselling

In the end, I would like to thank you for your patience and to give the floor to Mr. Yoichiro Tsuchida, UNHCR Representative in Romania.

ANNEX 4

UNHCR's Mandate on Separated Children in Romania

by Yoichiro Tsuchida, UNHCR Representative in Romania

Let me start by saying that UNHCR is thankful to all those who have contributed to putting the separated children's issues high on the European and the national agendas. Our partnership with Save the Children Alliance for the implementation of the Separated Children in Europe Programme, helped us to increase our knowledge about the situation of refugee and asylum-seeking children, particularly separated children, to widely disseminate the international standards relating to this vulnerable category and to promote improvements in the national asylum systems, with regard to separated children seeking asylum.

Some three years ago, when Romania joined the Separated Children in Europe Programme, little was known about separated children's issues in the country. A Task Force chaired by UNHCR Romania was established at that time including the authorities, the NGOs, and the judiciary. It is through the work of this Task Force, which is still functioning, that considerable improvements were made in Romania with regard to the treatment of separated children seeking asylum.

Although such improvements occurred in many European countries, we cannot stop and rest. A number of protection gaps still exist and UNHCR remains concerned about them – in Romania as well as in other European countries.

Disappearance of separated children from reception centres either very soon after their arrival or after a rejection of the asylum application. Some children go further West, to other European countries, where they have relatives, a few return home, while the destinies of others remain unknown.

Trafficking in human beings has become an increasing phenomenon. We know that most asylum-seekers who come to Europe are smuggled and some also become victims of traffickers. Separated children are clearly a group at very high risk of being trafficked, and our fear is that the disappearing children might end up being trafficked, exploited or abused.

Reception conditions are not always appropriate, with adequate care arrangements. Recently, the Romanian authorities have decided to accommodate separated children in a special centre and UNHCR believes that this is a good initiative. It remains to be seen however, to what

extent educational and recreational activities will be available, social and emotional support, as well as material assistance to address the specific needs of separated children and adolescents.

A positive development in Romania is that all separated children are appointed **guardians**. Close co-operation between the National Refugee Office, Save the Children Romania and the Guardianship Authority has been remarkable in this regard. UNHCR however, is worried that there exists no official system to recruit and train guardians for separated children. An initiative of Save the Children Romania to recruit and train students in law and social work is being supported by UNHCR, in order to fill this gap.

We are concerned about the fact that very few of the separated children in Romania – and in other European countries are recognised as refugees. (Bulgaria is an exception and a positive example in this regard, with the highest percentage of separated children granted international protection). The very low recognition rate indicates that the **refugee status determination procedures** meaning the interviews, legal representation and assessment of the case, are not sufficiently child-sensitive. Child-specific persecution and torture of children is not taken sufficiently into consideration in the refugee status determination procedure and interviewing techniques need to be improved. What is **child-specific persecution** ? It could be a twelve-year old girl who is under threat to be forcibly married; a young Iraqi boy who by force has been recruited to the military by the regime of Saddam Hussein; it could be a Cameroonian girl who will be circumcised if returned to her home-community.

One of the first actions taken on behalf of a separated child should be **family tracing** in order to establish the contact and to explore the possibility for **family reunification** in the long-term. This unfortunately is not undertaken in Romania. One of the reasons is the difficulty of tracing the family members in countries such as Afghanistan, Iraq or Bangladesh. Furthermore, it is only those with refugee status who can be reunited with close family members. Since very, very few separated children get refugee status, in reality there are minimal possibilities for family reunification. In the absence of clear legal provisions allowing the family to reunite with the separated child in the country where he or she receives international protection, family reunification is practically impossible. UNHCR believes that European countries should change their policies and practices in order to allow for family reunification of separated children, irrespective of status.

Promoting **durable solutions** is key to UNHCR's protection work. However, most separated children in Europe today do not have a durable solution. There are in theory three possibilities: asylum; reunification with the family in a third country; and return to the country of origin. However, in reality, most of the separated children are granted a temporary asylum status, or no status, with no long-term perspective. It is imperative that :

- more separated children are granted a status which has a long-term perspective;
- family reunification in a third country becomes easier; and that
- return programmes are established to ensure a safe return to the country of origin when this is deemed in the best interests of the child.

Among the issues of concern to UNHCR are **identification** of separated children and **age assessment**, the main topics of this training seminar.

Early identification, at the border for example, is essential in order to ensure that separated children have access to the territory, are not channelled through accelerated asylum procedures, and receive adequate care. UNHCR understands the need to know a child's age in order to give appropriate care. However, we are deeply concerned by the wide use of highly unreliable and unfair age assessment methods used in some countries, such as the x-ray procedures of bones and other physical investigations (teeth, sexual development). The result of these methods lead to the exclusion of a number of children from getting the special attention and care they need. They do not have access to a guardian, there is no search for possible child-specific form of persecution and they may thus be denied asylum, although they may be in need of international protection; there is no schooling and no child-specific educational and social support, and more seriously, when they do not qualify for the refugee status, such children may be kept in detention, in cases when they just happen to appear older than they in fact, are. There is no simple solution to age assessment; it is not an exact science. Therefore, it is so important to give the child the benefit of the doubt and to use methods, which put more emphasis on psycho-social aspects.

Let us not forget, that before being asylum-seekers, refugees or any other category of migrants, those under 18 years of age are **children** first, and foremost. UNHCR strongly believes that in the case of separated children, or unaccompanied minors – as they are also referred to, systems must be developed to address the issue from a child care perspective, rather than a migration control perspective.

I am happy to see here today Ms. Kate Halvorsen, an old friend and an excellent professional, whose dedication to separated children's issues inspired many UNHCR colleagues. I am grateful that our partners Save the Children Denmark and Save the Children Sweden have favourably responded to the initiative of Save the Children Romania to organise this training seminar in Bucharest. Romania, Bulgaria and Hungary have a lot to share in this field and this seminar can significantly contribute to the harmonisation of practice regarding separated children who seek asylum in the region. Let me conclude by wishing you all a successful seminar, both useful and enjoyable; and to express UNHCR gratitude for the support provided by Save the Children Denmark, Sweden and Romania to this initiative.

ANNEX 5

NATIONAL INSTITUTE OF LEGAL MEDICINE

“MINA MINOVICI” – BUCHAREST

Sos. Vitan Barzesti Nr.9, Sector 4,

7000, Bucharest, Romania

Methodology of Age Assessment in Minors without Accompanying Persons

Prof. Dr. Viorel Panaitescu, MD

Dr. Mariana Rosu, MD

Forensic anthropological expertise for age determination in minors without accompanying persons in Bucharest and district of Ilfov are made in the Laboratory of Anthropology and Serology of the National Institute of Legal Medicine “Mina Minovici”, Bucharest.

The number of this kind of expertise has been growing during the last few years, as a consequence of the mounting rate of family abandon, vagabondage and illegal immigration.

So, in the year 2000, we made 250 such expertise, in 2001, a number of 538 and in 2002, a number of 300. Up till now, in the first two months of this year, we made 55 expertise of the kind.

These children are found by police workers, who fetch them for admission in specialized centers for minors’ surveillance. For the large majority of minors in these situations, there are no available ID documents, nor any official data regarding their identity. That’s why these minors are sent to the National Institute of Legal Medicine, in order to get their age determined by up to date anthropological methods.

Forensic anthropological expertise for age determination is based on three types of examinations: anthropometrical, odontological and x-rays examinations.

1. Within the *antropometrical examination*, the minor’s weight, height, skull perimeter, thoracic and abdominal perimeter, length of different segments of the limbs and the

skull index are determined. Depending on each case's features, there may also be described a variety of particular elements (scars, tattoos, amputations, congenital malformations or anomalies) and / or anthroposcopy details of the face and head (regarding hair, nose, ears etc.).

The information provided by this examination is insufficient for an accurate determination of the minors' age because the evaluated parameters are frequently influenced and modified by various metabolic or endocrine diseases (e.g.: rachitis). For this reason we use, in addition, the two following examination methods.

2. **Odontological examination** usually offers the most reliable information for age determination, as teeth emerge in a very precise sequence, during determined age intervals. So, temporary teeth erupt between the ages of 6 months and 2 years – 2 years and a half. Loss of temporary teeth and eruption of permanent dentition is a process that takes place between the ages of 6 and 12 years. The only exception is represented by the 3-rd molar, which can erupt between the ages of 18 and 25.

3. **X-Rays examination** is only used after having passed through the two previous examination steps. This investigation reveals the ossification nuclei and the degree of consolidation at the diaphysis / epiphysis junction.

In order to avoid the child's irradiation, there aren't used dental radiographs.

X-rays of the limbs are executed only after having established the dental age by clinical methods. X-rays examination is mandatory for those age intervals in which the odontological examination brings only orienting elements.

For instance, at the age of two years and a half, temporary teeth are completely erupted. The child's dental formula stays unchanged until the age of 6, when the first permanent molar appears. That's why the information provided by skeleton's x-ray examination leads to a more accurate age appreciation.

A similar situation occurs between the ages of 12 and 18, when permanent teeth are completely erupted, excepting the 3-rd molar. In this stage x-rays are more relevant for age determination, as they can reveal the degree of consolidation at the diaphysis / epiphysis junction. In these cases, the anthropometrical and the odontological examinations are those that can tell to which age group the minor belongs. Depending on these results, the type of x-rays to be made is chosen. The imaging exploration will show either the ossification nuclei or

the degree of consolidation at the diaphysis / epiphysis junction in the locations where they have the most recently appeared, in relation with the estimated age.

For the reasons previously exposed, we recommend the following x-ray types for different age groups:

- ◆ for ages between 1 and 9, hands and feet radiographs;
- ◆ for ages between 9 and 13, elbows and knees radiographs;
- ◆ for ages between 14 and 16, pelvis and elbows radiographs;
- ◆ for ages over 16, long bones radiographs.

We appreciate the exposed methods to be extremely useful especially for determining ages of 14, 16, 18, when, according to Romanian legislation, there can be risen the question of minors' judgement capacity in matters concerning responsibility in front of the penal law.

Besides, establishing the age of a minor as younger or elder than 18 is absolutely necessary in all cases regarding people with refugee status.

AGE ASSESSMENT¹²

by Birgit Einzenberger

Why do disputes over the age of separated children arise?

In recent years a "culture of disbelief" towards asylum seekers and refugees has emerged which has also not spared separated children. Since the legal consequences of being a child are often significant, the alleged minority of an asylum seeker is often challenged by the authorities. This is especially the case if they come from certain countries of origin, such as Sierra Leone, China or India. According to Sandy Ruxton's study³ the situation in other European countries of asylum is similar. It is interesting to note that the practice of age assessment began in Austria only in 1997⁴.

We have to accept the fact that some asylum applications are made by people claiming to be under 18 years of age although they are in fact older. But, at the same time, we have to be aware that even stricter controls imposed in many European countries could eventually deny the rights of separated children.

Age assessment is thus currently one of the most crucial issues in dealing with separated children.

No penalty for those who cross the border in an irregular manner

Before going into the depths of age determination, let me stress that the fact that separated children cross the border in an irregular manner does not make them bogus asylum seekers or bogus minors. On the contrary, like adults, separated children fleeing their countries of origin often have difficulties in acquiring passports and visas. This is why Article 31 of the 1951 UN Convention Relating to the Status of Refugees explicitly recognises that refugees sometimes have to travel with false documents in order to flee dangerous situations and/or have to enter a

¹ The following is a short overview on age assessment in general and age assessment methods in particular. Special focus is put on the reliability of the different methods in use. It was prepared by Birgit Einzenberger, Protection Assistant, UNHCR BO Vienna, in December 2001. The views expressed are not necessarily shared by UNHCR.

² Updated in December 2002 by Kate Halvorsen and Mafalda Leal, UNHCR Brussels, SCEP

³ Ruxton, Sandy/ Separated Children in Europe Programme: Separated Children Seeking Asylum in Europe: A Programme for Action, 2000, p. 50ff

⁴ Fronek, Heinz/ Separated Children in Europe Programme: Country Assessment Report Austria, p. 10, (http://www.sce.gla.ac.uk/Global/Documents/Eng/RepliesQuestionnaires/Austria_engQ.htm)

country of asylum in an irregular manner. It should be noted that it may even be more difficult for children to obtain a passport and a visa since they are often not entitled to passports due to not having reached the age of majority, not having access to their own personal documents or for other reasons.

It has to be assured that children are not punished for this by assuming that they are adults which would lead to the denial of their fundamental rights.

International Standards

Having said so I would suggest having a closer look at international standards covering age assessment:

1. The 1997 “UNHCR Guidelines on Policies and Procedures on Dealing with Unaccompanied Children Seeking Asylum” suggest the following:

“If an age assessment of the child’s age is necessary the following considerations should be noted

- A) *Such an assessment should take into account not only the physical appearance of the child but also his/her psychological maturity.*
- B) *When scientific procedures are used in order to determine the age of the child, margins of error should be allowed. Such methods must be safe and respect human dignity.*
- C) *The child should be given the benefit of the doubt if the exact age is uncertain.”⁵*

2. The *Statement of Good Practice* stipulates the following:

“There should be a presumption that someone claiming to be under 18 years of age, will be treated as such. (...) In making an age determination separated children must be given the benefit of the doubt. If an age assessment is thought to be necessary, it should be carried out by an independent paediatrician with appropriate expertise and familiarity with the child’s ethnic/cultural background. Examinations should never be forced or culturally inappropriate. It is important to note that age assessment is not an exact science and a considerable margin of error is called for.”⁶

⁵ United Nations High Commissioner for Refugees: Guidelines on Policies and Procedures on Dealing with Unaccompanied Children Seeking Asylum, February 1997, p. 5

⁶ Separated Children in Europe Programme: Statement of Good Practice, February 1999, p. 8

European practice

It is interesting to note that, according to my information, there are still European countries in which no age assessment is carried out, such as Ireland⁷. However, the vast majority operates with one or another form of age assessment. I shall now briefly introduce the various methods of age assessment which are currently being used in Europe and place a special focus on their reliability.

1. *Assessment of the bone age:*

The bone age is assessed using two common methods:

- The ***Greulich-Pyle method*** is based on x-raying the growing hand and the wrist and comparing the x-ray with a reference atlas⁸. The study rests on the assessment of core bone growth and the persistence or level of growth of long bones⁹. The reference atlas was established by Greulich and Pyle in a 1935 study on white, upper-class US-Americans of European origin with the purpose to determine pathologies such as a retard in growth¹⁰. Diamant-Berger stresses that the study does not relate to differences in evaluation in particular, not even to interracial differences, and concludes that it is more or less reliable only within a time span of 18 months¹¹.

The Greulich-Pyle method is still carried out in many European countries such as Belgium¹², Finland¹³, Lithuania¹⁴ and France¹⁵. It seems, however, that fewer countries are now using this method.

In 1996 already the Royal College of Radiologists in London advised its fellows and members that it is “inappropriate” to undertake a radiographic examination for the purposes of age estimation¹⁶. This is regarded as “useful advice” by the Royal College of Paediatrics and Child Health¹⁷. It also reflects Chapter 2 Section 5 of the Asylum Casework Instructions of

⁷ Separated Children in Europe Programme: Country Assessment Report Ireland, p. 14, (http://www.sce.gla.ac.uk/Global/Documents/Eng/RepliesQuestionnaires/ireland_q.htm#5)

⁸ Dangerfield, Dr. P. H.: Hip Replacement Module: Part 11 The Hand and The Growing Hand, p. 1, (<http://www.liv.ac.uk/HumanAnatomy/phd/mbchb/hip/hip11.html>)

⁹ Diamant-Berger, Docteur Odile: „Quelle Protection en Europe Pour les Mineurs Isolés Demandeurs d’Asile“: Intervention du Docteur Odile Diamant- Berger, Chef Service des Urgences Médico Judiciaires Hôtel-Dieu Paris, 27 October 2000, p. 37f

¹⁰ ibidem

¹¹ ibidem

¹² Briefing Note from UNHCR Belgium, 20 June 2001

¹³ Separated Children in Europe Programme: Country Assessment Report Finland, (http://www.sce.gla.ac.uk/Global/Documents/Eng/RepliesQuestionnaires/finland_engq.htm#5)

¹⁴ Separated Children in Europe Programme: Country Assessment Report Lithuania, (http://www.sce.gla.ac.uk/Global/Documents/Eng/RepliesQuestionnaires/lithuania_engQ.htm)

¹⁵ Diamant-Berger: p. 37

¹⁶ Ruxton: Footnote 2, p. 52

¹⁷ The King’s Fund and the Royal College of Paediatrics and Child Health: The Health of Refugee Children. Guidelines for Paediatricians, November 1999, p. 13, (<http://www.rcpch.ac.uk/library/Past%20Publications/past%20publications.htm>)

the Immigration and Nationality Department which states that “under no circumstances should a caseworker suggest that an applicant should have x-rays taken for this purpose”¹⁸ (i.e. for age assessment). The Royal College of Radiologists furthermore stresses that even if individuals seeking entry wish to support their case, it has to be taken into consideration that the accuracy of estimation of age from hand radiography remains in doubt as regards groups that have not yet been studied¹⁹.

In September 2000 the Swiss Asylum Appeal Commission decided that radiological assessment is subject to limited liability since it does not take into account the differences in skeletal development according to racial background²⁰. The decision quoted Ontell who proved that reservations have to be made, since bone maturation is reached earlier now than in the 1930s and is influenced by ethnic background²¹. This has, according to the Appeal Commission, been confirmed by a study carried out by Loder in 1993²². Also, the Appeal Commission underlined that this method was established in order to determine retards in growth and to determine the age of a person.

The “limited knowledge apparently available about bone age in cultures other than “European”²³ is also highlighted by the Senate Legal and Constitutional Committee of the Parliament of the Commonwealth of Australia. The Committee furthermore reports evidence presented by the New South Wales Council for Civil Liberties stating that the “x-ray procedure itself is uncertain”²⁴: “We cannot be confident, it having only been tested on Caucasians in North America, that this process is any more certain than an appropriately qualified person giving an opinion based on other types of tests.”²⁵

Stöver, Head of the Charité Humboldt University Clinic in Berlin, also argues that children from Southern Europe and the Balkan countries have a quicker somatic development than those from Northern Europe²⁶.

The German Association of Forensic Odonto-Stomatology of the German Society of Dentistry and the German Society for Forensic Medicine on the other hand come to the conclusion that bone maturity is independent of ethnic origin²⁷: Although Sutow’s study from 1953 established a retard in growth in Japanese, Roche proved that there were no significant differences between persons of black and white origin or between those from urban and rural areas²⁸.

¹⁸ *ibidem*: p. 14

¹⁹ *ibidem*

²⁰ Swiss Asylum Appeal Commission: EMARK-JICRA-GICRA 2000/19, 12 September 2001, (<http://www.ark-cra.ch/emark/2000/19.htm>)

²¹ *ibidem*

²² *ibidem*

²³ The Parliament of the Commonwealth of Australia/ Senate Legal and Constitutional Committee: Inquiry into the Provisions of the Crimes Amendment (Age Determination) Bill 2001, p. 22, (http://www.aph.gov.au/senate/committee/legcon_ctte/crimambill2001/crimesbill2001.pdf)

²⁴ *ibidem*: p. 20

²⁵ *ibidem*

²⁶ Stöver, Prof. Dr. B.: Letter to Dr. Winfried Beck/ Head of the Association of Democratic Doctors, 2 January 1995

²⁷ Schmelting, A.; Geserick, G.; Vendura, K.; Olze, A.; Reisinger, W./ German Association of Forensic Odonto-Stomatology of the German Society of Dentistry and the German Society for Forensic Medicine: Age estimation and ethnicity, 2000, p. 2, (http://home.t-online.de/home/roetzscher.klaus.dr/a_000204.htm)

²⁸ *ibidem*

Hartmann, a paediatrician, argues that skeletal development can grow a few years ahead of the real age. For this reason it is possible that hand and wrist bones can be fully developed before the child has reached 16 years of age²⁹.

In Germany methods involving x-ray technology are no longer official government policy and in Austria, the use of radiographic examinations for non-medical purposes was forbidden until recently. On 1 January 2003 amendments to the Austrian Aliens Act enters into force.

Para 95 (5) of the Austrian Aliens Law stipulates that:

"The determination of an alien's age shall be the responsibility of the authority in the course of the investigative proceedings; in so doing, the authority shall consult all appropriate and legally admissible evidence with a view to clarifying the facts. In particular, the services of an official medical officer may be engaged for the purpose of clarifying such facts. At the request of the alien, an X-ray of his carpal bones shall be taken at his expense. The actual probative force of this method shall be explained to the alien; failure by the alien to request an X-ray of his carpal bones shall not imply a refusal by the alien to cooperate in the clarification of the facts and shall not affect the evaluation of the evidence. Should an alien claim not to have reached a certain age and thus still to be under age, the competent youth welfare office shall - except in cases of obvious inaccuracy - be contacted without delay and heard. Refusal by the alien to cooperate in the clarification of the facts shall be taken into account by the authority in the course of evaluation of the evidence."

- The *TW-2 method by Tanner & Whitehouse* which is based on the assessment of skeletal maturity and prediction of adult height, is used e.g. in Belgium³⁰. Here, each of the 20 bones in the hand is individually compared with a series of pictures of the ossific development of that particular bone³¹.

It has to be stressed that the reference standards used in this procedure were already established in the 1950s and 60s³². The well proven fact that bone maturity is reached sooner now than four to five decades ago, and that it may further depend on ethnic origin, nutritional habits and other individual factors are unfortunately not taken into consideration³³.

Geserick from the Charité Institute of Legal Medicine at the Humboldt University in Berlin on the other hand argues that bone maturity does not vary due to ethnic origin: He underlines that it was demonstrated in a literature study carried out by Schmeling in 2000 that bone maturity does only depend on the socio-economic development of the person in question but that it is not, however, subject to ethnic impact³⁴.

²⁹ Hartmann, Priv. Doz. Dr. med. K.: Letter to Dr. Winfried Beck/ Head of the Association of Democratic Doctors, 1 December 1994

³⁰ Briefing Note from UNHCR Belgium, 20 June 2001

³¹ Dangerfield: p. 1

³² Diamant-Berger: p. 38

³³ *ibidem*

³⁴ Geserick, G./ Charité Institute of Legal Medicine at the Humboldt University in Berlin: Letter to the Austrian Ministry of Interior, 23 March 2000; see also: Schmeling, Geserick, Vendura, Olze, Reisinger/ German Association of Forensic Odonto-Stomatology of the German Society of Dentistry and the German Society for Forensic Medicine: Age estimation and ethnicity, 2000, p. 2, (http://home.t-online.de/home/roetzscher.klaus.dr/a_000204.htm)

Ranta from the University of Helsinki stresses that the Tanner & Whitehouse method is no longer applicable for persons who are older than 16 years of age³⁵.

- **General conclusions:**

As regards bone and real age in general, Zink, Zink and Reinhardt found out that they only correspond in 20 to 30 % of the assessed cases³⁶.

The Royal College of Paediatrics and Child Health concludes: “The issue of whether the chronological age can be determined from the estimate of bone age has been discussed at great length in the literature. The answer is, it cannot.”³⁷

Lery and Goldberg from the “Droit et Ethique de la Santé” state that numerous experts agree to consider that it is in any case impossible to conclude the chronological age from the bone age³⁸.

The Senate and Constitutional Legislation Committee of the Parliament of the Commonwealth of Australia also stated that there is a “known lack of precision of information provided by x-rays”³⁹. “Medical evidence provided to the Committee agreed that there were variations between individuals; that there were standard deviations; that a poor reading by a radiologist could be about the same as a standard deviation; and that poor nutrition and health could retard bone maturation.”⁴⁰ Additionally the Committee refers to the “lack of discussion of x-ray information about females, and the limited knowledge apparently available about bone age in cultures other than “European”⁴¹. It concludes that “variations can be as more than a year higher than chronological age, and up to 18 months younger than chronological age”⁴².

According to Ranta the following discrepancies are allowed for in Sweden: 0-2 years of age - 6 months' discrepancy, 2-9 years of age - 12 months' discrepancy, 9-18 years of age - 24 months' discrepancy⁴³. Ranta herself makes use of the following margins of error: 0-4 years: +/- 6 months (which means that the discrepancy between the assessed and the real age can be up to one year), 5-10 years: +/- 12 months (which allows for a discrepancy for up to 2 years)⁴⁴. For persons over 16 years of age bone age estimates become, according to Ranta, very inaccurate and only the dental age can be estimated⁴⁵.

³⁵ Ranta, Helena/ University of Helsinki, Department of Forensic Medicine: Training Report. Children First. Workshop on Asylum Interviews (31 October – 1 November 2000). Age Assessment of a Child, p. 19, (<http://www.iom.fi/publications/Reports/2001/Children%20First%20Training%20Report.pdf>)

³⁶ Laier, Tanja; Beck, Wilfried/ Pro Asyl: “Aus der Hand gelesen. Die Zulässigkeit von Röntgenaufnahmen der Hand zum Zwecke der Altersfeststellung bei unbegleiteten minderjährigen Flüchtlingen”, March 1995, p. 10, (<http://www.proasyl.de/roentgen.htm>)

³⁷ The King's Fund and the Royal College of Paediatrics and Child Health: p. 13

³⁸ Lery, Docteur Nicole/ Goldberg, Docteur William; Droit Ethique de la Santé, Centre Hospitalier Spécialisé „Le Vinatier“: Elements de Reflexion sur la Determination de L'Age Chez les Presumes Adolescents, p. 2

³⁹ The Parliament of the Commonwealth of Australia/ Senate Legal and Constitutional Committee: p.

20

⁴⁰ ibidem

⁴¹ ibidem: p. 22

⁴² ibidem: p. 24

⁴³ Ranta: p. 18

⁴⁴ ibidem

⁴⁵ ibidem

Diamant-Berger finally concludes that, since different radiological criteria have in practice never been compared with a reference population of the same ethnic origin, the recorded radiological criteria is “scientifically unsound” as regards adolescents in particular between 15 and 18 years of age⁴⁶. These assessments can therefore only be used with a certain level of imprecision⁴⁷. Ranta also stresses that there “is some variation between skeletal development between the different parts of the world”⁴⁸.

2. **Physical measurements:** They are carried out e.g. by the Forensic Institute in Romania as part of a multi-disciplinary assessment⁴⁹, combining three methods of age assessment: physical measurements; bone X-rays; and dental assessment. The overall result of the age assessment procedure is a combination between these three methods and the conclusion is drawn by a specialist. The physical measurements and the dental assessment are carried out by the same person, the bone x-rays by a different specialist and the conclusion is drawn by a third person (specialist).

According to Diamant-Berger, anthropological measures are handled delicately since the intervening factors such as genetic and racial disposition, nutritional deficiencies, and endocrines are numerous⁵⁰. She stresses that the existing reference tables go back almost 35 to 40 years and no longer correspond to the people living in France today. This has been proven e.g. by the fact that adolescents nowadays are on average a lot bigger than their elders, be it in the size of their waistlines, shoes or glove size⁵¹.

According to the Royal College of Paediatrics and Child Health, “it is virtually impossible to deduce the age of an individual from anthropometric measures”⁵². It is stressed that it is “not possible to give a precise age of an individual from these stages” because alterations in nutritional status, illness and furthermore ethnic differences in particular regarding person from the Indian subcontinent, influence the puberty development⁵³. The Royal College of Paediatrics and Child Health finally concludes: “Overall, it is not possible to actually predict the age of an individual from any anthropometric measure, and this should not be attempted.”⁵⁴

Also, Lery and Goldberg from the “Droit et Ethique de la Santé” conclude that an external physical examination can only give some signs for orientation but without great precision⁵⁵.

3. **Dental age**⁵⁶ is almost only referred to additionally as in Sweden (in combination with a skeletal assessment)⁵⁷ and Austria (as part of the inspection). Different dental methods can

⁴⁶ Diamant-Berger: p. 38

⁴⁷ ibidem

⁴⁸ Ranta: p. 19

⁴⁹ UNHCR Newsletter- Separated Children in Europe Programme, Issue 3, March 2001

⁵⁰ Diamant-Berger: p. 37

⁵¹ ibidem

⁵² The King’s Fund and the Royal College of Paediatrics and Child Health: p. 13

⁵³ ibidem

⁵⁴ ibidem

⁵⁵ Lery, Goldberg: p. 2

⁵⁶ Bibliographic references on the relationship between wisdom teeth and chronological age are available on the internet at: http://www.zm-online.de/m5a.htm?/zm/18_01/pages2/zmed1_I.htm

be used based on counting available primary or permanent teeth in the mouth or studying the mineralization as seen in a radiograph of the teeth or a combination of both⁵⁸. According to the German Association of Forensic Odonto-Stomatology methods, studying the mineralization can be regarded as more suitable since they are quite independent from external influence⁵⁹. The appearance of teeth on the other hand is influenced e.g. by an early loss of milk-teeth, infections and available space⁶⁰. Still the association concludes that an ethnic impact on dental development cannot be excluded⁶¹. It assumes, however, that the ethnic differences should not accumulate up to more than 12 months⁶².

In Sweden they should combine three methods of investigation/assessments according to Government guidelines. This would include an X-ray of bones, dental examination and a psycho-social assessment. In the case of very young children they should not apply the x-ray.

The two physical tests have 1 ½ years margin of error and the lowest end of the age margin should be chosen. Apparently, the existing practice still does not include the psycho-social assessment which the Migration Board has been attempting to correct.

Kullman generally states that “the accuracy and precision of most of the dental methods used during childhood, have been studied and found to be rather low, since many more developing parameters can be used in younger years and the development rate is faster in young children, it is to be expected that accuracy and precision are inferior in older juveniles“ which „has been proved by research“⁶³. He furthermore stresses that “the normal biological variation in the development is also large for all teeth“⁶⁴. He concludes: “To be able to state anything about the certainty in this prediction a confidence interval must be constructed around this average age. In this manner most methods for age determination of children have arrived at a 90-95% confidence interval of about two years around the estimated age, a rather low precision. This is during childhood when several not fully developed teeth can be used. In juveniles, when only the third molars have some root development left, this precision will be even lower but since we lack better methods, the third molar is one of the best available predictors to use besides skeletal age“⁶⁵.

The Royal College of Paediatrics and Child Health concludes that “there is not an absolute correlation between dental and physical age of children but estimates of a child’s physical age from his or her dental development are accurate to within + or – 2 years for 95% of the population and form the basis of most forensic estimates of age. For older children, this margin of uncertainty makes it unwise to rely wholly on dental age“⁶⁶.

⁵⁷ Separated Children in Europe Programme: Country Assessment Report Sweden, p. 10, (http://www.sce.gla.ac.uk/Global/Documents/Eng/RepliesQuestionnaires/Sweden_engQ.htm)

⁵⁸ For further information see e.g.: Kullman, Leif: Monthly Reports Forensic Odontology, April 1997, (<http://www.odont.se/rapporter/ratts/97/rattsodontologi-9704.htm>)

⁵⁹ Olze, A.; Schmeling, A.; Geserick, G.; Rieger, K.; Kalb, G./ German Association of Forensic Odonto-Stomatology: Examination of the Degree of Mineralization of Third Molars at an European Population, 2001, p. 2., (http://home.t-online.de/home/roetzscher.klaus.dr/a_010205.htm)

⁶⁰ *ibidem*

⁶¹ Schmeling, Geserick, Vendura, Olze, Reisinger/ German Association of Forensic Odonto-Stomatology: p. 1

⁶² *ibidem*

⁶³ Kullmann: p. 1

⁶⁴ *ibidem*

⁶⁵ *ibidem*

⁶⁶ The King’s Fund and the Royal College of Paediatrics and Child Health: p. 14

Helm stresses that the dental development can be far in advance of the skeletal whereas the latter should be preferred⁶⁷.

According to Ranta there is, due to the lack of reference data, no clear evidence of definite interracial differences in this respect, she advises “to take the minimum and maximum values and take an average, with some leeway to either direction”⁶⁸. She stresses that nowadays genetic disposition has the major influence, whereas also environmental factors, except in cases of some childhood illnesses such as continual high fevers, are “not of great importance”⁶⁹.

On the contrary, Diamant-Berger refers to ethnic, nutritional and socio-economic impact⁷⁰: She stresses that although the presence of 4 wisdom teeth is only in theory a synonym for being over 18 years of age, we know that in practice these criteria are subject to fluctuations⁷¹. As regards the impact of ethnic origin she stresses that dental maturity of persons from the Maghreb or Asian countries is often more premature than those from persons of other ethnic backgrounds⁷².

German experts⁷³ also conclude that an ethnic impact on dental maturity cannot be excluded, but that it should lie within a margin of 12 months. The German Association of Forensic Odonto-Stomatology quotes Mincer et al. who did not find any significant differences between persons of European or African descent but stresses that they only tested a comparably low number of persons (out of 823 US-Americans and Canadians assessed, 19% were of African origin)⁷⁴.

Marré and Hetzer from the University of Dresden discuss several studies which have been performed including a 1997 study performed in Nigeria by Ottuyimi et al. on 1,701 persons who were between the ages of 13 and 21 which demonstrated that 1,1% of probationers already had all four wisdom teeth at the age of 14⁷⁵. Thorson and Hägg concluded that an assessment of the age of children of foreign origin using dental methods is not possible for the time being since several factors such as extraction of other teeth in advance, nutrition and others have an impact on the eruption of the third molars⁷⁶: Marré and Hetzer conclude that it has been proved that the outcome of the wisdom teeth is subject to ethnical differences which can accumulate up to three years⁷⁷.

4. **Inspection:** This type of age assessment is carried out e.g. in Germany⁷⁸ and Austria.

⁶⁷ Helm, S., in: Marré, Birgit; Hetzer, Gisela/ German Association of Forensic Odonto-Stomatology: Newsletter: Age Determination of Children and Juveniles- Keynotes, 1999, p. 2, (http://home.t-online.de/home/roetzsch.klaus.dr/a_990302.htm)

⁶⁸ Ranta: p. 19f

⁶⁹ Ranta: p. 19

⁷⁰ Diamant-Berger: p. 37

⁷¹ ibidem

⁷² ibidem

⁷³ Schmeling, Geserick, Vendura, Olze, Reisinger/ German Association of Forensic Odonto-Stomatology: p. 3

⁷⁴ Olze, Schmeling, Geserick, Rieger, Kalb/ German Association of Forensic Odonto-Stomatology: p. 3

⁷⁵ Marré, Hetzer / German Association of Forensic Odonto-Stomatology: p. 3

⁷⁶ ibidem

⁷⁷ ibidem

⁷⁸ Separated Children in Europe Programme: Country Assessment Report Germany, p. 23, (http://www.sce.gla.ac.uk/Global/Documents/Eng/RepliesQuestionnaires/Germany_engQ.htm)

In Germany persons working either for the youth welfare agency or for the aliens police authority will have a look at the minors and then, according to their experience, assess their age⁷⁹.

In Austria an inspection interview is - according to what we hear from NGOs - regularly carried out by the aliens police authorities through a public health officer (in these cases the public health officer examines the physical appearance by checking for signs of puberty such as (wisdom) teeth, pubic and facial hair and then concludes the age) and sometimes conducted by the asylum officer at the beginning of the asylum interview. In some parts of Austria the asylum officer makes this assessment together with the local youth welfare officer. Some youth welfare officers refuse to co-operate arguing that they are not qualified to assess the age of a person whom they have met only five minutes ago. In both cases the physical appearance is the basis for the assessment⁸⁰. In neither case the individual's psychological maturity is taken into account.

The German Association of Forensic Odonto-Stomatology concludes that an ethnic impact on sexual development cannot be excluded⁸¹.

Diamant-Berger stresses that the secondary sexual characteristics are determined by the extent or the lack of hormonal activity and do not correspond with the absolute age of an individual⁸². Also, she underlines that the inspection may be regarded as intrusive by the child⁸³.

The German NGO *Pro Asyl* stresses that an inspection of sexual maturity is disgraceful⁸⁴. The report issued by the Austrian Human Rights Advisory Board generally states that medical methods of age determination could infringe Art. 3 ECHR⁸⁵.

5. **Interviewing techniques** are sometimes taken advantage of in Austria, where, in the course of the asylum interview, the information gathered (the asylum seeker's school and professional career, the birth dates of family members etc.) is assessed against the consistency of the age given. During this procedure the fact that the interviewer can express him or herself in a language which the asylum seeker understands, and can understand what the asylum seeker says, or that a translator is present is of particular importance. But generally it can be said, that all medical examinations would require that⁸⁶.

The Royal College of Paediatrics and Child Health underlines the relevance of the social history to a particular child's assessment and requires that "in utilising paediatricians' reports, immigration officers and adjudicators should give due weight to social and cultural facts in

⁷⁹ *ibidem*

⁸⁰ Fronek, Heinz/ Separated Children in Europe Programme: p. 11

⁸¹ Schmeling, Geserick, Vendura, Olze, Reisinger/ German Association of Forensic Odonto-Stomatology: p. 1

⁸² Diamant-Berger: p. 37

⁸³ *ibidem*

⁸⁴ Holzscheiter, Anna: „Mit wie viel Jahren sprießt der Bart“, TAZ Nr. 6431, 26 April 2001, (<http://www.taz.de/pt/2001/04/26/a0050.nf/text>)

⁸⁵ Menschenrechtsbeirat/ Bundesministerium für Inneres: Bericht des Menschenrechtsbeirates zum Problem „Minderjährige in Schubhaft“, p. 24, (http://www.menschenrechtsbeirat.at/index_berichte.html)

⁸⁶ Dr. Diamant-Berger: p. 38

addition to the physical factors, in view of the difficulties inherent to age determination⁸⁷. It thus calls for a holistic approach⁸⁸.

In the UK, there is Home Office policy on who should assess the applicant's age. It is the Immigration Officer who conducts the initial interview, which usually lasts approximately 15-20 minutes, who will make the determination. With reference to the methods of assessment, there is no inspection or examination. The assessment is based on the interview and on simply looking at the applicant. The decision may be rebutted with medical or documentary evidence. The Home Office does not, however, accept that it is bound by such evidence. If an assessment is carried out by a social worker who finds that the applicant is in fact a minor, the Home Office will accept this and treat the applicant as a minor⁸⁹.

Age assessment is no determination but only just an educated guess

Due to the lack of reliability which, as laid out above, more or less affects all forms of age assessment, experts such as Damm, Director of the Hamburg General Medical Board, and Alt, Head of the Institute for Anthropology at the University of Mainz, conclude that neither a medical doctor nor another professional can, due to individual and interracial differences, accurately determine the age of young refugees⁹⁰.

This view is shared by Lery and Goldberg from “Droit et Ethique de la Santé” who argue that taking into consideration the various internal and external factors age can only be assessed but never determined⁹¹.

Further, an Austrian experts conference held on 7 March 2000 which was organised by the Austrian NGO *Kinderstimme* (Children’s Voice) came to the conclusion that an age determination is not possible with the existing medical methods. The chronological age can only, with a certain degree of likelihood, be concluded from the biological age, but not definitely determined. All parameters can be influenced by ethnical and biographical factors, but the degree of these influences has not been determined yet.

This position was reflected in the report of the Austrian Human Rights Advisory Board on “Minors in Detention”⁹² and even in a following circular letter issued by the Austrian Ministry of Interior on 2 October 2000. The circular letter stresses that due to the lack of a generally accepted and legally valid medical-scientific method of age determination, authorities as well as experts can only operate with estimates, and margins of error need to be taken into account. It furthermore reflects the opinion of the Human Rights Advisory Board that persons who, for professional reasons, have much contact with and expertise concerning minors, such as youth welfare officers, paediatricians and youth psychologists, should be

⁸⁷ The King’s Fund and the Royal College of Paediatrics and Child Health: p. 14

⁸⁸ *ibidem*: p. 13

⁸⁹ Details on the procedures are contained in a Home Office publication: 'Unaccompanied Asylum Seeking Children-Information Note' available at www.ind.homeoffice.gov.uk/default.asp?pageid=3164

⁹⁰ Holzscheiter. Anna: „Mit wie viel Jahren sprießt der Bart“, TAZ Nr. 6431, 26 April 2001

⁹¹ Lery, Goldberg: p. 3

⁹² Menschenrechtsbeirat/ Bundesministerium für Inneres: p. 23, 27

involved in the age assessment procedure. On 3 October 2000 the Ministry of Interior issued a respective list consisting of 58 youth psychologists and paediatricians who may be involved in the age determination procedure. The proposal formulated by the Human Rights Advisory Board⁹³ that, according to UNHCR guidelines, the psychological maturity should be taken into due account was not explicitly mentioned. However, the circular letter concludes that if minority cannot be excluded the benefit of the doubt should be given to the child.

Unfortunately the report of the Human Rights Advisory Board as well as the circular letter issued by the Ministry of Interior, first of all, do not set up any legal right on which minors could rely on and secondly, have, according to what we heard from NGOs, not really changed the situation in practice. Especially the aliens police authorities still operate with their own assessments, hardly ever involve external experts and rarely seem to be in doubt. The inspection by a public health officer, as explained earlier, still seems to be the most common method for age determination. Margins of error are allowed but are, according to what we heard from NGOs, almost always excluding minority of the asylum seeker. All samples of age assessment decisions which were forwarded to us concluded the age to be 20 plus/minus one year. (In Austria, prior to 1 August 2001, majority was only reached at the age of 19.)

The German “Study Group of Forensic Age Estimation of the German Association for Forensic Medicine“ developed “Guidelines for Age Estimation in Living Individuals in Criminal Proceedings“ the core of which is the following procedure: “There is wide agreement about the most suitable methods presently available. These are:

- physical examination with determination of anthropometric measures (height and weight, constitutional type), inspection of the signs of sexual maturation, and identification of any developmental disorders that might affect age-appropriate development,
- x-ray examination of the left hand,
- examination by a dentist with determination of the dental status and x-ray study of the dentition.

These methods should be used together to increase the diagnostic accuracy and to improve the identification of any relevant developmental disorders.⁹⁴

⁹³ *ibidem*: p. 25

⁹⁴ Study Group of Forensic Age Estimation of the German Association for Forensic Medicine: Guidelines for Age Estimation in Living Individuals in Criminal Proceedings, Berlin, 2001 (http://www.charite.de/rechtsmedizin/agfad/empfehlung_1.htm#englisch)

Age Assessment of a Child

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General Comments

It must be borne in mind, that we are dealing with age **assessment**, not age determination, because the result of age testing is always just an educated guess, it is not possible to determine a person's age precisely at a 100 % accuracy. Some margin for discrepancy needs to be allowed for. In Sweden the recommendation for the discrepancy allowed for different age groups is according to the following scale:

- 0 -2 years of age 6 months' discrepancy
- 2 -9 years of age 12 months' discrepancy
- 9 - 18 years of age 24 months' discrepancy

(See SOSFS Recommendations: Socialstyrelsens författningssamling, 1986:26 and 1993:11, Sweden)

The following scale is useful in assessing the probability of a likely match between the given age and the age according to the test result:

- Highly probable (99,9% in **some** cases)
- Probable
- Less probable
- Excluded

Feed back from the field is needed.

Indications

It is not the task of the actual age assessment to answer, what consequences the test may have for the person being tested. The purpose for which the testing is done, is outside the tester's scope. He only carries out the technical testing without any value assessment. The question also needs to address, who all will be informed about the age assessment. Will the testing agency send the info only to the agency that requested the testing, or is it also sent to other persons?

When age assessment is done for forensic reasons there seldom arises any problems concerning the reasons and consequences of the assessment. But when living persons are being tested ethical questions arise. The necessity of the tests must always be considered.

Consent

Responsibility

The decision maker must carry the responsibility of what to do with the knowledge gained from the test results.

Procedures and methods

There is a problem with reference values. Reliable population statistics data from the countries of origin of the applicants is often lacking.

Individual vs. society

The following question needs to be asked: In whose interest is the testing done? Is it in the interest of the individual, i.e. the child's right to grow within the age group he/she physically belongs to, or in the interest of the society to which the child has been sent to?

Reliability

Different methods can give different results, so the tester must be aware of the reliability of the methods used. This is also linked to the existence or lack of suitable reference data.

Consequences

The decision maker must be prepared to meet the consequences of the testing and answer some difficult questions as a result

Definition of Age

Chronological Age

This is what the age assessment testing is trying to clarify

Bone Age

It is also called the **skeletal age**. Analysing X-rays of the long bones can be used, if such X-rays are already available. However, it is an ethical question, whether it is right to take X-rays of long bones (of arms and legs) for the purposes of age determination and to expose the child the radiation unnecessarily.

There is some variation between the skeletal development between the different parts of the world (climate factors?)

The following methods are employed:

- Greulich-Pyle method

Radiographic Atlas of Skeletal Development of the Hand and Wrist. Stanford University Press, 1953

- TW-2 method (Tanner & Whitehouse)

Assessment of Skeletal Maturity and Prediction of Adult Height (tanner, Whitehouse, Goldstein), Academic Press, 1983

- RUS method (radius, ulnam short bones)

This method often yields a bit younger ages than the TW-2 values.

The TW-2 and RUS methods are not applicable anymore after a person is over 16 years of age.

The latest development in this field is the Danish experts' s suggestion, that taking and analysing X-ray of the shoulder area of a person yield's the most accurate results as far as the actual age of the person is concerned.

Dental Age

Genetic control of development:

Nowadays this has major influence.

Environmental factors:

Usually this is not of great importance, except in cases of some childhood illnesses, such as continual high fevers, in which case the results of the dental testing may be less accurate than normally.

From the EU countries, France, Italy and Spain do not use DNA testing at all for family reunification. They rely on dental method, as it is not affected much by environment.

Interracial differences:

There is no clear evidence of definite interracial differences in this respect. There is a lack of reference data. The most comprehensible data base in this field is compiled in Canada.

Therefore, it is advisable to take the minimum and maximum values and take an average, with some leeway to either direction, depending on the case.

For children, the following methods of determining their dental age are used:

- Demirjian

According to Dr. Ranta, this is the best method for determining the age of a child. It incorporates wrist X-rays with dental data. This method can be used for skeletal assessment as well.

- American Board of Forensic Odontology

This method uses X-rays of wisdom teeth. It can be used on 16 - 22 year olds. It does not yield reliable results in younger age group. It is not too reliable when used with deciduous teeth.

- Eruption charts and Reference Values

This method analyses X-rays of the whole mouth.

The following method can also be used, but it yields more reliable results with adults and especially with elderly people:

- Aminoacid racemisation method:

This is a precise method for elderly people, giving approximatley 3 years (+-) accuracy. In this method, a person's tooth is extracted and processed for examination at a temperature of precisely + 37 degrees of Celcius.

'Social' Age

This is culturally/societally bound. It is sometimes difficult to assess another society's member in this respect.

Example case:

Date of birth: 3 March 1983

Greulich Pyle 18 - 19 years

TW-2 over 16 years

RUS over 16 years

ABFO 19 years

Result: Revised date of birth: 27th May 1980

WORKSHOP ON AGE ASSESSMENT AND IDENTIFICATION

Bucharest, 20-22 March 2003

EVALUATION SUMMARY

NGO	8
Government	6
UNHCR	1

1. Which session or part of the workshop did you like the best – why?

- exchange of ideas
- the action planning sessions
- all sessions equally important and interesting
- the discussions
- learning and discussing about age assessment
- group work and discussions
- reporting and discussions on the different practices in various countries
- the discussion on reception

2. Which session or part of the workshop did you like the least – why?

- the 'fruit-salad' energizer
- age assessment

3. How do you think the workshop will help in your daily work?

- increased knowledge of government policy and topics
- improve the cooperation between government and NGOs
- help us explain better the subject-matter to others
- keep the issue of separated children high on UNHCR's agenda
- use as reference in lobbying/awareness-raising
- useful information about practice on age assessment and identification in the three countries
- all the information can be used in discussions with partners in-country
- will be very useful in future work with children
- got ideas for funding possibilities
- better idea of the situation in the other countries
- as newcomer to this field of separated children, it was very important to learn
- by establishing contacts the work will be easier
- gave new ideas on how to integrate the issue of separated children into my work

4. What is your opinion of the venue and practical arrangements?

- excellent
- ok, but no place for the smokers
- good
- fantastic

5. What is your overall assessment?

very good	Good	Average	not useful
14		1	

6. Do you have any suggestions on how to improve the seminar?

- ensure that non-English speakers, especially those delivering speeches, have professional interpretation available
- include visits to relevant places, eg. A reception center for separated children
- include some experts (doctors) on age assessment
- invite other countries from the region, such as Ukraine, Moldavia and Serbia
- have more exercises and working groups

7. Any other comments?

- very useful for keeping the SCEP momentum
- enjoyed workshop
- thank you for the possibility to be here and to learn so much about separated children; it was really important
- keep on doing the same wonderful things