

REPORT OF THE JOINT MISSION OF  
UNICEF, UNHCR, AND DCI IN COLLABORATION WITH THE  
HAGUE CONFERENCE ON PRIVATE INTERNATIONAL LAW  
  
FOR THE PROTECTION OF  
THE RIGHTS OF UNACCOMPANIED CHILDREN  
  
IN FORMER YUGOSLAVIA

14 - 26 MARCH 1993

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## PREFACE

The members of the Mission would like to thank all those who facilitated their work in UNICEF and UNHCR offices in Zagreb, Split, Sarajevo, Belgrade, Podgorica and Geneva offices.

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## INTRODUCTION

The joint Mission of UNICEF, UNHCR, and DCI in collaboration with the Hague Conference on Private International Law to the republics of ex-Yugoslavia took place from March 14 to 26, 1993.

This Mission was carried out in the same spirit as previous missions undertaken in other eastern European countries (notably Romania<sup>(1)</sup> and Albania<sup>(2)</sup>) which had taken as their aim the task of evaluating and providing technical assistance for the protection of the rights of children in need of (alternative) family care, in particular adoption in light of the 1989 UN Convention on the Rights of the Child. This Convention was ratified by former Yugoslavia on 3 January 1991. (See Terms of Reference - Annex I). A crucial difference, however, was that this was a mission to a region in war. Yugoslavia, which had been a country with a highly developed social services infrastructure as well as a sophisticated legal system, had split into 6 republics, all with different characteristics, instead of one. All of these republics are suffering as a consequence of the current war in the region.

The Mission was initially planned to take place in Croatia, as the Croatian government had asked for assistance with legislation for protection of vast numbers of displaced people and refugees on Croatian territory, but the brief was subsequently extended to enable the group to investigate and assess the actual situation of children on the territories of not only Croatia but also Bosnia-Herzegovina, Serbia and Montenegro.

The Mission to the former Yugoslavia was set up primarily to review and assess the situation of unaccompanied children who had been displaced, orphaned or abandoned as a consequence of wars - first in Croatia, and later in Bosnia-Herzegovina - as well as other categories of children - institutionalized children and abandoned children born to victims of rape.

The fact that four countries had to be visited in only two weeks' time, in circumstances which were difficult, put considerable constraints on the Mission. This report should therefore be seen as a preliminary assessment of the situation, and many aspects will have to be further examined, hopefully in more peaceful circumstances.

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<sup>(1)</sup> See: Defence for Children International/International Social Service: Romania - The adoption of Romanian children by foreigners, Report of a Group of Experts on the implementation of the Convention on the Rights of the Child regarding inter-country adoption, 1991.

<sup>(2)</sup> See: UNICEF, Defence for Children International and International Social Service in cooperation with the Hague Conference on private international law: Regulating inter-country adoption from Albania, Report of a mission to assist in drafting a new law on adoption and facilitating its implementation.



## PART I. - RECOMMENDATIONS

### SHORT TERM RECOMMENDATIONS

#### A. GENERAL

1. The best interests and rights of the child should be at the heart of all decision and policy making in the Republics of former Yugoslavia.

2. All Governments in the region have manifested their intent to abide by the principles and norms of the 1951 Convention and the 1967 Protocol relating to the Status of Refugees, and the 1989 Convention on the Rights of the Child. Therefore, they should take these instruments as the basis of their decision making and policy making and they should also be assisted by the world community in the implementation of these Conventions. Those states which have not yet formally expressed their consent to be bound by these Conventions should do so promptly.

3. An inter-sectoral policy process should be initiated within each government of the region in order to define and monitor a comprehensive childhood policy based on the rights of the child.

#### B. TARGET GROUPS OF CHILDREN WHO MAY BE IN NEED OF ALTERNATIVE FAMILY CARE

4. Planning for alternative care for children in the region should take into consideration the specific needs of the following 3 categories of children :

1. Children in institutions
2. Babies born to victims of rape
3. Unaccompanied displaced and refugee children

##### B.1. **Children in Institutions**

5. Institutionalization should not be seen as the automatic, systematic and exclusive response to abandonment of children nor to other social problems, such as poverty, illness or unemployment of the parents. Priority should be given to forms of alternative family care such as extended family care or foster care or adoption. Procedures should be adapted in all the States of the region so as to reduce institutionalization.

## B.2. Children Born to Victims of Rape

6. Since the numbers of children in this category are very limited and local support systems seem to be capable of dealing with these few children, the best approach for the outside world to help these children would be to assist local support systems as required and requested. At all times the mother's wish for secrecy and privacy must be respected. Every effort should be made to prevent the danger of stigmatization of such children.

## B.3. Unaccompanied Displaced and Refugee Children

### (i) Legal Status of Children

7. All States in the region and de facto authorities have responsibility for all children on their territories whether nationals, foreigners or refugees. They are under duty to treat refugee children favourably, according to international standards contained in the 1951 Convention and the 1967 Protocol relating to the Status of Refugees, and the 1989 Convention on the Rights of the Child.

8. A legal custodian - individual or a body - should be appointed for every unaccompanied child wherever he or she is found.

### (ii) Registration and Tracing

9. All children who are not with their parents must be registered and fully documented, in order to determine their civil status, assess and plan for their care and to facilitate their tracing in the future.

10. A special body should be established in each State of the region to centralize all information relating to registration, documentation and tracing of unaccompanied minors in cooperation with UNICEF/UNHCR/ICRC and other bodies concerned.

11. An effective system for inter-country communication among all the States of the region should be established, to overcome the breakdown which has come about due to the war, to enable information exchange regarding refugee and displaced children both within and outside the region.

### (iii) Inter-Country Adoption

12. Since the numbers of orphaned children or children in need of alternative family care are small, and the States of the region are still capable of taking care of those few children, there is no need for inter-country adoption to countries outside of the region on any significant scale. Governments and international organizations should inform the public at large accordingly.



13. If, because of a further deterioration of the situation, larger numbers of orphaned children and abandoned children in need of a family should emerge, special long-term protection and assistance should be provided to those children, preferably in the region, in accordance with the letter and spirit of the 1989 UN Convention on the Rights of the Child and the draft Hague Convention on Protection of Children and Cooperation in Respect of Inter-country Adoption (adopted on 29th. May 1993).

(iv) Prevention of Trafficking of Children

14. The international community in general and the governments of the region in particular should take interest in monitoring the possible risk of large scale trafficking of children which may emerge and intensify after the end of the hostilities. To this effect, all local concerned institutions should keep records of any enquiries made by agencies to organize private adoptions and/or evacuation of children from conflict to other areas. These details should be documented within the national and international communities.

C. EVACUATION

(i) Safety

15. In the light of the detrimental and damaging situation of children exposed to relentless warfare at the active front lines, the option of controlled evacuation of children from these areas should be kept open.

(ii) Mode of evacuation

16. Any evacuation of children from former Yugoslavia should only take place in accordance with the Guidelines contained in the joint UNHCR/UNICEF Statements on "the Evacuation of Children from former Yugoslavia".

(iii) Family Reunification

17. An ongoing process of family tracing and reunification should be supported to include also documentation of unaccompanied children resettled in States outside of the region for this purpose.

## MEDIUM AND LONG - TERM RECOMMENDATIONS

### D. CHILDREN IN WAR

18. There is considerable evidence that vast numbers of children living in active war zones are in direct and grave danger of their life and safety. More vulnerable than older citizens, they are constantly the object of armed attacks, in violation of States' obligations under international humanitarian law. It has been demonstrated that States Parties to the Convention on the Rights of the Child are quite simply not in a position to ensure appropriate protection and care of children, as provided for under article 38, para 4 of that treaty. It would therefore seem desirable, for both the present and future, that competent international bodies review the implications of this provision in order to determine how a more concrete meaning might be given to this obligation.

### E. CHILDHOOD POLICY

19. The States of the region should, when the situation permits, establish the institution of the children's Ombudsman so as to help monitor the comprehensive childhood policy proposed in Short Term Recommendation Number 3 above.

### F. SPECIALIZED FAMILY COURTS

20. In view of the special and sensitive nature of cases regarding families the designation of specialized family judges and/or the creation of specialized family chambers within the courts is to be considered.

### G. ADOPTION PROCEDURE

21. The following improvements in the adoption procedure in the Republics may be considered:

- a. Establishment of services for the preparation of potential adoption parents and children for adoption.
- b. Review of procedures for the matching of children and prospective adoptive parents.
- c. Introduction of a probationary period whereby the child stays under a provisional custody with the prospective adoptive parents before a final adoption decree is made.
- d. Development of post-adoption services to adoptive families

## PART II. - DESCRIPTION OF THE SITUATION

### A. BACKGROUND

The Socialist Federal Republic of Yugoslavia (SFRY), which emerged and was consolidated in its final form in 1963, was a socialist, federal State which united the South Slav peoples of the region from 1945 up until 1990.

With the death in 1980 of Josip Broz Tito, leader of the Federation of Republics for 35 years, cracks started to emerge in the Yugoslav system and dissension was rife. There was a growing economic crisis and increasingly open political confrontation between republics which had already gained considerable autonomy under the 1974 Constitution. Nationalist ambition of political leaders together with territorial pretensions of ethnic groups during the 1980s brought about a situation of take-out confrontation as the republics one after the other opted to leave the federation. Moves to leave the federation were opposed by the two republics of Serbia and Montenegro who inherited the powerful army of the SFRY, the Yugoslav People's Army (JNA), and war broke out as the army attempted to enforce allegiance.

The Federation of former states which made up Yugoslavia has disintegrated and the former republics are now emerging as sovereign states. War in the region has now been a reality since June 1991. Slovenia and Croatia proclaimed independence on June 25 and 26 1991 respectively and were recognized in January 1992 by the international community. The defection of Croatia caused the uprising of Serbian citizens on Croatian territory. This was followed by recognition of Bosnia-Herzegovina on April 4 1992 which precipitated the outbreak of war in that republic.

Although the only country ostensibly at war in the region is considered to be Bosnia-Herzegovina, all the former republics are involved and affected to a greater or lesser degree with disastrous effects on the economies of the emerging states. Another of the devastating features is the vast movement of population fleeing from the conflict areas to seek asylum in neighbouring countries for fear of persecution for reasons of race, nationality, religion and political opinion. Amongst these are a number of children without adequate supervision, many of whom may now be considered to be "at risk", who are temporarily or permanently without parents due to the devastation of war and the chaos which accompanies flight and evacuation. Whilst some have been orphaned by the war, others have been separated, either unwittingly during flight or purposefully sent to safety by concerned parents.

With the independence of the republics, complications now arise which require the linking of national allegiance to the obtaining of citizenship of the newly created States. In general, the whole concept of statehood, with its implications (e.g. jurisdiction over population on the national territory; the fact that the different states of former Yugoslavia are now foreign states to each other, etc.) has yet to take shape in the region.

As the economies collapse in the region, the resulting unemployment is at crisis level in all the former republics as an ever increasing number of people become "social cases" dependent on the impoverished state for social assistance. The highly developed system of social protection has crumbled. All state institutions, schools and hospitals are extremely vulnerable. In former Yugoslavia, without the help of outside agencies and humanitarian assistance during the winter of 1992/93 there would have been many casualties from lack of food, medicines and fuel.

B. EXISTING CHILD AND FAMILY POLICIES REGARDING CARE AND PROTECTION OF CHILDREN WITHOUT ADEQUATE PARENTING

The former Yugoslavia had a comprehensive social welfare system covering all aspects of the basic welfare needs of its population. The health service was highly developed and Yugoslavia had excellent indicators for all aspects of child care - including a high level of special care for vulnerable groups - such as handicapped people and others with special needs. Good state schooling was available for all children.

In general, concern for the welfare of children was high on the socialist agenda. However there were certain differences in approach from western models of child care, one of which concerned the on-going significant recourse to institutions in catering for children "without adequate parental care".

1. **Extended Family Care**

The extended family is still a reality in the former Yugoslav republics and family bonds remain strong, with often three generations living together in traditional forms. The economic reality tended to reinforce these patterns; 50% of women worked and grandparents had become the prime carers of children.

2. **Foster Care**

In the former Yugoslav republics, foster care has long been a solution for children unable to live with their families. In some areas there was a tradition of child care in families at the community level - especially after World War II when children were evacuated and orphaned in large numbers. However with the rise in the cost of living, all republics report difficulty in finding new families for children, although incentives from the governments are, in principle, available. They range from approximately from \$ 25 a month in Croatia to \$ 50 a month in Serbia. All government experts interviewed by the Mission report, however, that even when fully functioning, foster care has always suffered from lack of adequate follow up and supervision of foster families.

### 3. Institutional Care

Parents in the former Yugoslavia had the option to place their children in state care for a multitude of "social" reasons. Institutions where children are cared for exist in every republic and are all working to capacity looking after very large numbers of babies and children of all ages. Institutionalized children range from those whose parents have gone to work abroad, to children of victims of drug or alcohol abuse. In general children born out of wedlock are also institutionalized. Care of infants is based on a medical model - babies are to be found lined up as in a hospital ward and feeding schedules are rigid. There is a shortage of personnel to handle babies who soon display symptoms of emotional deprivation. Care for older children is along behavioristic lines and no serious attempt is made to integrate children within the local community. Humanistic approaches which emphasize the individuality of the child are unknown. Parents have the right to keep their children indefinitely in this condition as long as they visit occasionally. In Serbia a "comprehensive" system of institutionalized child care was introduced in 1985 which included a weekly boarding facility for working mothers with no family support.

There are also large numbers of handicapped children institutionalized in the former Yugoslavia - especially children who are mentally handicapped, from mild categories, such as children with Down's syndrome, to severely handicapped and spastic children. There is no support system for parents to keep these children at home and no attempt made to integrate them into the community. Adoption of these children is not even considered.

### 4. Adoption

All the States of the region have detailed provisions on adoption. These regulations are summarized in Annex VI. The group was able to obtain the following additional information:

All the Republics have rules on abandonment to release a child for adoption if there is persistent parental neglect. This legislation is seldom implemented in Serbia and in Montenegro where there is a large number of children for whom adoption might be beneficial. In Serbia inter-country adoption was only considered if the potential adoptive parents were of Yugoslav origin. In Serbia, 660 adoptions were organized in 1992. In Montenegro, it was suggested that urgent changes needed to be made to obtain families for the increasing number of abandoned children condemned to an institutional way of life.

There are up to 40 adoptions in Croatia every year of which one to two only are inter-country adoptions. Inter-country adoption is only considered in "special cases" for whom no Croatian adoptive families can be found. In practice it has involved mildly handicapped children, children with "questionable" antecedents such as alcoholic or schizophrenic parents, older children and gypsy children.

Expert teams operating within institutions arrange adoptions although members of the teams feel that much more could be achieved to release the children into families. In Croatia, the expert teams also have systems for matching, preparation and follow-up of children with prospective adoptive parents.

The Government of Bosnia-Herzegovina is attempting to impose certain conditions on the governments of Croatia and Slovenia concerning adoption of Bosnian children currently in their territories, these being:

- adoption only after 2 years or after the war;
- adoption only with consent of Bosnian Government;
- adoption only to be conceded to Moslem parents.

All the Republics are aware that inter-country adoption without safeguards may present risks. They have been repeatedly approached by foreign adoption agencies and individuals seeking to adopt refugee children, but, so far, have been reluctant to accede such requests.

All of the official child care protection teams interviewed by the mission felt that the law was adequate to deal with adoptions but that implementation of the law was unsatisfactory, in so far as too many children remain in institutions for whom better alternatives should be made available.

#### C. DISPLACED PERSONS AND REFUGEES

Approximately 3.5 million people have fled from their homes in the conflict areas of former Yugoslavia. These refugees and displaced people are from all ethnic groups - Serbs, Croats and, above all, Moslems from Bosnia and Herzegovina. These refugees and displaced persons either seek safety in pockets where the population is concentrated or cross the borders to neighboring countries in search of asylum. The population of the Tuzla area, for example, has almost doubled, reaching 734,000 including 250,000 displaced persons from eastern Bosnia (70,000 of these are children).

In the region the majority of the refugee population has been accommodated in host families - up to 96% in some regions.

### **PART III. - CONSIDERATIONS**

#### **A. IDENTIFICATION AND ANALYSIS OF THE SITUATION OF SPECIAL GROUPS OF CHILDREN OF CONCERN TO THE MISSION**

The Mission started with the aim of assessing the magnitude of the problem and the situation of infants and children who were unaccompanied, abandoned or otherwise at risk due to the present conflict. The situation of these children with regard to the possibility of finding families - either their own for those separated due to the war, or adoptive families for abandoned or orphaned children - was also addressed by the Mission.

Three categories of children were identified as being of concern to the Mission:

1. - children in institutions;
2. - unaccompanied displaced and refugee children;
3. - infants born to victims of rape.

##### **1. Children in Institutions**

Most of the children currently in government institutions, coming from all parts of former Yugoslavia, would have been found there even under ordinary circumstances. A few exceptions, however, pertain to the increased number of children placed in institutions by their impoverished parents hard hit by the catastrophic economic situation and a varying number of refugee children either separated from their families by the war or abandoned under difficult circumstances.

While Serbia and Montenegro report 300 refugee children in their institutions, it may be due to the fact that they have decided to consider as "refugee" any child from a former republic of Yugoslavia other than Serbia and Montenegro, even if the child has been in the institution from before the break-up of Yugoslavia, as opposed to children newly arrived from elsewhere.

Likewise, although Croatia has not officially received abandoned refugee infants into its orphanages, leaving them to be cared for by two private children's homes in Zagreb, a small number of children of all ages from various parts of former Yugoslavia are known to be in government orphanages. The majority of them had been there from before the break-up of Yugoslavia and their citizenship is still unclear. UNHCR has recently raised this issue with the Government.

##### **2. Unaccompanied displaced and refugee children**

Except for Serbia which has registered 1,200 unaccompanied minors including 31 infants in institutions, the number of displaced and refugee unaccompanied children in the region is not known. In Serbia, it would appear that the majority of these unaccompanied minors are over 12 years old and have been sent by their parents to the safety of a country not directly at war. While some are able to continue contact with their parents by telephone or letter, others have been cut off by a deteriorating situation in their place of origin.

Although no comprehensive registration of unaccompanied minors has taken place yet in Croatia and Bosnia-Herzegovina, initial information for these countries suggests that the great majority of "unaccompanied" minors are in fact living with relatives. Although assessment of their situation as regards protection and care is less urgent, there nevertheless is a need to assist relatives in tracing the whereabouts of the children's parents and in facilitating family reunification.

UNHCR, with the assistance of the authorities concerned is starting a systematic registration of unaccompanied refugee minors in Croatia and in the areas of Bosnia-Herzegovina where it has an active presence. Steps have been taken to register unaccompanied minors in Tuzla and to follow them up. The same process is about to start in Zenica.

In addition to unaccompanied and abandoned children, other categories of children at risk involve those remaining in besieged towns who are in grave danger for their lives and safety. At the same time, concern has also been expressed regarding the whereabouts and situation of "hundreds of children" from Sarajevo and elsewhere who were hastily evacuated to neighbouring countries and beyond without adequate preparation, documentation, provision for follow-up and mechanisms for continued contact with their families. (See also next page: "Tracing", first paragraph).

### **3. Infants born to victims of rape**

Whether a distinction between these children abandoned for a specific reason and any other category of abandoned children should be made was discussed at length by the members of the Mission. While to make a distinction might stigmatise the child who would need to live freely from the connotations of his/her conception it was decided that in this case, however, this category of children should be addressed separately. There were two reasons for this: first, the world had been well informed of the war-related widespread sexual violence perpetrated on women in the region and expected that large numbers of infants would be available for adoption in former Yugoslavia, and secondly in future action to be taken "in the best interest of the child", consideration had to be given to ensuring that the child is placed in a social and cultural environment where he/she would not be subject to discrimination, ostracism or rejection because of the circumstances of his/her birth.

In reality, contrary to the world's expectation, very few infants in that category are to be found.

First and foremost, perhaps, is the fact that (thankfully) only a small proportion - some estimates put the figure as low as 1% or 2% - of rapes in fact result in conception. In addition, the extreme secrecy understandably maintained by the rape victims and others around them have made gathering and verification of data particularly difficult. Although it is by now clear that rape has been widely used as an instrument of domination and terror in the war in Bosnia-Herzegovina, there are a number of reasons why few infants only are known to have been born. These include an increase in terminated pregnancies - a well-accepted practice in the region; the possibility that a significant number of abused women were subsequently killed; the likelihood that some pregnant women left the region and sought asylum abroad; un-publicised adoptions arranged by members of the Bosnian



community and the possibility that some women may in fact be quietly raising their infants unknown to the outside world and in some cases possibly even to their community.

It is significant to note that none of the many plans and accommodations for assisting women victims of war violence and their babies elaborated by both voluntary agencies and the Government of Croatia have been able to attract any women. The need for secrecy and silence surrounding the event cannot be underestimated and should be respected. It would seem that the women are dealing with the matter themselves and that outside agencies are intrusive and unhelpful.

As regards the very few refugee infants known to have been surrendered at births, they are currently well taken care of in two private children's homes. The Government of Bosnia-Herzegovina wishes that they continue to be provided for in Croatia until the end of the war at which time it plans to find adoptive families among the Moslem population.

### Tracing

The issue of tracing is emerging as an area of great concern as families have been dispersed across boundaries and records are incomplete. The main problems for tracing are:

- 1) incomplete registration;
- 2) lack of formal communication between republics - especially between Serbia and Croatia;
- 3) evacuation of people by amateur agencies, without appropriate procedures and proper control;
- 4) continued movement of population.

The International Committee of the Red Cross (ICRC) has a tracing system which crosses boundaries. It is the agency traditionally responsible for family tracing in times of war and other upheavals. However its tracing services are at present overwhelmed by the magnitude of the need and cannot carry out individual research beyond trying to operate a mail delivery service system in the areas to which it has access.

Some informal structures are operating, for example there is a Belgrade radio station which broadcasts to Sarajevo with messages to families (Radio B 92). Great use is also made of the citizen's band amateur radio network and much information is obtained from the siege areas by this method.

In Belgrade there is the refugee magazine 'Odgovor' (Answer), and 8000 copies are printed and distributed monthly. This is a private initiative which so far is only distributed in Yugoslavia although it is hoped to extend circulation to Serb-held areas of Bosnia-Herzegovina.

UNHCR is initiating a programme for registration and documentation of unaccompanied minors in all the republics of the former Yugoslavia, with a view to assessing their situation and tracing family members.

Another problem, that of ensuring the protection and tracing of unaccompanied refugee children who have left the region and are living abroad, is being addressed by a Croatian-based NGO. The agency proposes, among other measures to be taken, establishing a strong information network across borders for eventual reunification of families including those involving repatriation.

## B. LEGAL CONSIDERATIONS

### 1. CONVENTION ON THE RIGHTS OF THE CHILD (1989)

The Convention was ratified by the Federal Republic of Yugoslavia in 1991 and it therefore remains in force in Serbia and Montenegro. Both Slovenia and Croatia have acceded to the treaty (the equivalent of ratifying it), on 6 July 1992 and 12 October 1992 respectively. Bosnia-Herzegovina has neither signed nor ratified, but has also manifested its intent to respect the Convention.

The following are some considerations regarding the application of a number of articles. It should be recalled, however, that the Convention is a comprehensive instrument and all articles have to be read in relation to one another.

#### a. Non discrimination (Art. 2 and 30)

The policy of "ethnic cleansing" and the effects of this on children are not in accordance with the basic principle of non discrimination. The consequences of these cleansing activities will be felt for a long time in the region imposing a threat to the implementation of Article 2 and 30.

#### b. Name, Nationality, Identity (Articles 7-8)

As a result of the war conditions some unaccompanied children are at risk regarding these articles. An adequate system for registration of displaced people and refugees and a tracing network can avoid these risks.

#### c. Separation from parents, Family reunification, Rehabilitative care (Articles 9-10-22-39)

A proper system of registering and tracing will prevent (further) violations of these provisions.

- Special attention must be given to Article 9.4 regarding the exchange of information to enable families to locate an absent family member.

- Co-operation with the competent bodies, as stated in Article 22.2, should be more developed for authorities to assist and provide information to help a refugee child trace his or her parents.

- Effective programmes of rehabilitative care should be set up as soon as possible according to Article 39.

d. Illicit transfer and non-return (Article 11) Sale, trafficking and adoption (Article 35)

Special attention should be paid to Article 11.2 regarding measures to combat the illicit transfer and non-return of children abroad, and to Article 35 on preventing the abduction of, the sale of or traffic in children for any purpose or in any form. It must be noted that, due to the war conditions it may be that some agencies or private persons are operating in the region with malefic aims.

e. Parents primarily responsible for upbringing of children (Article 18)

Given the relatively high level of state intervention (see 2a above), more attention should be given to parental responsibility for the upbringing and development of the child. The role of the State should be more particularly oriented towards supporting the parents as stated in Article 18.2 and 27.3.

f. Adoption (Article 21)

Although the national laws of the different republics are fully in accordance with the standards put forward in this article, the implementation system seems to fail. Specifically the Law on the Declaration of Abandonment, which can facilitate the adoption of permanently abandoned children instead of keeping them in institutions for their whole childhood.

Regarding inter-country adoption, among the republics of the former Yugoslavia there is some confusion on Article 21.e (with particular reference to the position of Bosnian children in Croatia), regarding the jurisdictional responsibility and the question of applicable law.

2. JURISDICTION AND APPLICABLE LAW RELATING TO REFUGEE CHILDREN

The mission found in some states of the former Federal Republic of Yugoslavia (for instance, in Croatia), that a legal opinion prevailed according to which while it was appropriate for the local authorities to appoint a custodian or guardian to foreign children including children with the nationality of another state of the former Federal Republic, if further protection measures in favour of a child of foreign nationality were required, the authorities of the child's nationality had the sole and primary responsibility for taking such measures. As a consequence, the authorities of the country of the child's nationality should define further measures for his/her care and protection, and it is up to "the person responsible for looking after the child to contact those authorities in order to define such further measures".

This view would, in the opinion of the mission, lead to results which are not in the best interest of the children concerned. It would, moreover, be contrary to the basic obligations which the international Conventions referred to in this report, as well as to the general principles of public and private international law which have long been firmly established. It would seem that it is also based on a confusion of two concepts which must be distinguished very carefully, i.e. the concept of *jurisdiction* and that of *applicable law*.

According to Article 2 of the Convention on the Rights of the Child, "*The States Parties to the present Convention shall respect and ensure the rights set forth in this Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's, or this or her parent's or legal guardian's ... national, ethnic or social origin ... birth or other status*".

One of the rights which the States Parties must ensure and respect for each child within their jurisdiction is the right to special protection and assistance to "a child temporarily or *permanently* deprived of his or her family environment" (Article 20, emphasis added). Article 20 lists as examples of the "alternative care" to be provided "foster placement, Kafala of Islamic law, adoption, or if necessary, placement in suitable institutions for the care of children", and Article 21 adds, in respect of "States Parties which recognize and/or permit the system of adoption", as is the case for all former Yugoslavia republics, the possibility of inter-country adoption.

There is no doubt that as soon as a child of whatever nationality has his or her residence in the territory or state, the authorities of that state have primary jurisdiction to take measures directed to the protection of that child's person or property. This is the rule of the *Hague Convention of 5 October 1961 on the Jurisdiction of Authorities and on Applicable Law concerning the Protection of Minors*, ratified by many European States.

If children are permanently deprived of their family environment, there should be a jurisdiction providing, as appropriate, either for possible adoption in the country, or for providing assistance in the arrangement of an inter-country adoption in a third country. There is no doubt that in all cases where a child is not promptly repatriated to his or her State of nationality or previous residence, such a child falls within the normal jurisdiction of the country where the child is settled (has acquired residence) for all matters of personal status, including measures for long-term placement such as adoption (whether in-country or inter-country). Therefore, the authorities of the state of habitual residence have both an exclusive right and a duty to take such measures with respect to children of whatever nationality and status, including refugee status, having their habitual residence on the territory, in particular to children with the nationality of Bosnia-Herzegovina.

Another question concerns which law is to be applied to such measures of long-term placement. In the case of refugee children, the question of applicable law is decided in favour of the domestic law of the country of residence of the child. Article 12 (1) of the 1951 Refugee Convention provides that "*The personal status of a refugee shall be governed by the law of the country of his domicile or, if he has no domicile, by the law of the country of his residence*".

This means that children of a foreign nationality on the territory of a State of the former Federal Republic, in particular children with the nationality of Bosnia-Herzegovina, are to be treated as refugees, and that the internal law of that State will apply to all questions relating to their refugee status, including adoption whether in-country or inter-country.

As for refugee children, the foregoing comments reflect the position which UNHCR has taken in the negotiations at The Hague on a worldwide Convention on international co-operation and protection of children in respect of inter-country adoption, which will be concluded in May 1993. The draft Article proposed by UNHCR for inclusion in the Draft Convention is attached as Annex VII to these comments.



## DRAFT (Revised)

## TERMS OF REFERENCE FOR A PRELIMINARY MISSION TO CROATIA, BOSNIA, SERBIA AND MONTENEGRO ON QUESTIONS RELATING TO THE PROTECTION OF THE RIGHTS OF CHILDREN WHO ARE UNACCOMPANIED OR AT RISK OF ABANDONMENT AS A RESULT OF THE CONFLICT

## 1. Background

In common with several other countries in Eastern and Central Europe (e.g. Albania, Romania, Russia, Ukraine), certain republics of ex-Yugoslavia are now having to deal with sudden interest being expressed by foreign individuals and agencies regarding the adoption of their children. Few countries in the region (a notable exception is Poland) have any substantial experience of intercountry adoption (ICA), and this has been reflected in lack of appropriate legislation, absence of competent structures, unawareness at all levels of international standards and of the risks that the latter be flouted.

Experience of confronting situations of serious ICA-linked children's rights violations in some countries of the region (including notably Albania and Romania) has made it possible to draw up a tentative list of "risk factors". These cover not only realities in the "country of origin" of potential adoptees – lack of legal and administrative framework, political instability, emergency, relative poverty, etc. – but also those in the "receiving countries", such as media treatment of the question and government attitudes, which affect the level of "expressed" or "effective" demand for children to adopt.

Croatia has ratified the Convention on the Rights of the Child, but Bosnia is not yet a signatory. Neither former Yugoslavia nor any of the republics of ex-Yugoslavia have contributed actively in the work to draw up the Hague Convention on Intercountry Adoption, which began in 1990.

## 2. Genesis of the proposed preliminary mission

In the wake of the cooperation established between UNICEF and DCI to promote the protection of the rights of children in ICA, notably in Romania (1991) and Albania (1992), there has been on-going informal consultation between the two agencies regarding developments in the field of, or pertinent to, ICA in the Eastern and Central European region.

In the latter half of 1992, UNICEF and the UNHCR became particularly concerned about uncoordinated ad hoc initiatives to evacuate children from parts of ex-Yugoslavia, and issued two joint statements on this question dealing, inter alia, with potential problems related to ICA.

Two events in late 1992/early 1993 – the allegations of systematic rape in Bosnia and news of the Croatian move to draw up an ICA law – and their possible ramifications for the protection of children's rights led to the planning of a joint mission by UNHCR, UNICEF and DCI, in association with the Hague Conference on Private International Law, to the areas concerned.

### 3. Objectives of the proposed mission

The proposed preliminary joint mission is designed to:

- i) assess the relevant legislation and situations of, respectively, Bosnia, Croatia, Serbia and Montenegro in terms of their current and potential impact on ICA as well as of the overall social welfare and protection needs of children;
- ii) prepare recommendations and, if necessary and appropriate, follow-up plans for implementation of this and other legislation in the wider context of ensuring both preventive and reactive solutions for children who are or may be in situations of abandonment, with reference to the specific realities of Croatia, Bosnia, Serbia and Montenegro.

In the context of its fact-finding and analytical functions ("i" and "iii"), the mission will pay special attention to the following issues against the background of the provisions of the Convention on the Rights of the Child:

- o the nature, programme and impact on ICA issues of foreign agencies (humanitarian aid and other interventions) currently working in the two countries;
- o the situation of refugee and displaced populations, particularly in regard to child care;
- o the current and foreseen situation of children born as a result of rape, as well as the protection of the rights of children unaccompanied or at risk of abandonment as a result of the conflict;
- o relevant policy approaches adopted or envisaged by the authorities.

In the context of its technical assistance function ("ii"), the mission will seek to ensure that the spirit and letter of the Convention on the Rights of the Child and the preliminary draft Hague Convention on Inter-country Adoption are incorporated into legislation and administrative procedures.

In the context of all its functions, the mission will, because of its preliminary nature, identify areas where additional input would seem to be required from one or more of the partners or from other agencies.

The mission is scheduled from 14 to 27 March 1993.

### 4. Tentative listing of members of the mission

- Ms Marie de la Soudière, UNHCR, in consultation with OCM Karen Landgren, Bosnia and Herzegovina, and Jacques Mouchet, OCM Croatia, as necessary
- Ms. Stephanie Allen-Early, Education advisor to UNICEF ex-Yugoslavia
- Mr Hans van Loon, First Secretary, Hague Conference on Private International Law
- Mr. Eugeen Verhellen, Delegate of Defence for Children International (DCI).

Geneva, 12 March 1993



PEOPLE MET DURING THE VISIT OF THE JOINT MISSION
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## ZAGREB

1.	CHRISTOF CONRAD	- RESIDENT PROGRAMME OFFICER FOR UNICEF CROATIA AND SLOVENIA
2.	JACQUES MOUCHET	- UNHCR CHIEF OF MISSION FOR CROATIA
3.	KARIN LANDGREN	- UNHCR CHIEF OF MISSION FOR BOSNIA-HERZEGOVINA
4.	ADALBERT REBIC	- DIRECTOR, OFFICE OF DISPLACED PERSONS REFUGEES (ODPR), CROATIA
5.	MAJA KURENT	- ADVISOR, ODPR
6.	VISNJA MAJSEC	- ADVISOR, ODPR
7.	DR JASNA KELEVA	- DIRECTOR OF ORPHANAGES, ZAGREB DIRECTOR OF ORPHANAGE, JOSIPOVIC
8.	JELICA BELOSEVIC	- SOCIAL WORKER
9.	DUNJA CURUVIJA	- SOCIAL WORKER
10.	DUBRAVKA HRABRAR	- FAMILY LAWYER, ZAGREB UNIVERSITY
11.	HELA UJEVIC	- FAMILY LAWYER, MINISTRY OF SOCIAL WELFARE
12.	TONA VESELIC	- DIRECTOR OF CENTRE FOR SOCIAL WORK, VELIKA GORICA
13.	ANA BEZIC	- SOCIAL WORKER
14.	DR MATE GRANIC	- DEPUTY PRIME MINISTER
15.	DR MIRJANA KUJUNDZIC	- ADVISOR TO DEPUTY PRIME MINISTER
16.	JELENA BRAJSA	- DIRECTOR, CARITAS, ZAGREB
17.	DR FAROOQ REDZEPAGIC	- DIRECTOR, MERHAMET, ZAGREB
18.	DR VESNA BOSNJAK	- SENIOR ADVISOR UNICEF NYHQ
19.	PROF. ZELJKO MATIC	- PRESIDENTIAL FOREIGN POLICY ADVISER

## SPLIT

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20.	NADA MARASOVIC	- ASSISTANT PROGRAMME OFFICER, UNICEF
21.	ZDRAVKA RADOSEVIC	- LAWYER, MILEVA TOMIC, HOME FOR CHILDREN
22.	VILMA PRY	- SOCIAL WORKER " " " "
23.	MAYA LIPANOVIC	- SOCIAL WORKER " " " "
24.	ANTE BLAZEVIC	- SOCIAL WORKER " " " "
25.	STANKA TANDARA	- DEFECTOLOGIST " " " "
26.	IGOR LONGO	- PSYCHOLOGIST " " " "
27.	NIVES IVELJA	- SOCIAL WORKER " " " "
28.	MARIA SMUJIC	- DIRECTOR " " " "
29.	TATJANA VUKMAN	- DIRECTOR, ORPHANAGE " KASTELA "
30.	NELLA BURIC	- TEACHER " "
31.	ZLATA DUBRAVCIC	- TEACHER " "
32.	ROKO MRDEN	- TEACHER " "

## SARAJEVO

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33.	IFETA NEZIROVIC	- CONSULTANT, MINISTRY OF SOCIAL WELFARE
34.	SEMIR BRANA	- CONSULTANT, MINISTRY OF SOCIAL WELFARE
35.	SEAD ZECO	- ASSISTANT MINISTER FOR SOCIAL WELFARE
36.	MUSTAFA MUJANOVIC	- EXPERT ADVISOR
37.	DR.NEDIM JAGANJAC	- NATIONAL PROGRAM OFFICER FOR UNICEF
38.	NUDZEIM RECICAICA	- CIVIL OFFICER OF DIRECTORATE FOR DISPLACED PEOPLE AND REFUGEES
39.	ANNETTE O'GORMAN	- SOCIAL WORKER -UNCHR
40.	AHMED MATANAC	- DIRECTORATE FOR DISPLACED PEOPLE AND REFUGEES
41.	ANTHONY LAND	- CHIEF OF OPERATIONS IN BOSNIA-HERZEGOVINA, UNHCR SARAJEVO

**BELGRADE**

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42.	DONATELLA LINARI	- RESIDENT PROJECT OFFICER UNICEF
43.	DUSANKA LUKIC HAVELKA	- ASST. MINISTER, SOCIAL WELFARE
< 44.	MILIVOJE MILIKIC	- MINISTRY FOR SOCIAL WELFARE
45.	BRANKA RADINOVIC	- MINISTRY FOR SOCIAL WELFARE
46.	SPASENKA DJOKIC	- FRIENDS OF THE CHILDREN OF SERBIA
47.	SPOMENKA NOVAKOVIC	- COMMISSARIAT FOR REFUGEES
48.	JOZO MILINKOVIC	- YUGOSLAV RED CROSS
49.	NADA DJURETIC	- LEGAL PERSON, SOCIAL WELFARE MINISTRY
50.	MILAN RADOJEVIC	- DIRECTOR OF ORPHANAGE ZVECANASKA
51.	RANKO MILIC	- FEDERAL MINISTRY FOR EXTERNAL AFFAIRS
52.	MIRA NIKOLIC	- FEDERAL MINISTRY FOR EXTERNAL AFFAIRS
53.	RASKO KARADZIC	- DIR. COLLECTIVE ENTRE ZVEZDANI GAI
54.	BRATISLAVA PETROVIC	- DIRECTOR PRE SCHOOL CENTERS IN THE ZVEZDARA MUNICIPALITY
55.	MIRA RADIN	- DIRECTOR INSTITUTE VETERNIH FOR HANDICAPPED CHILDREN
56.	RUZICA RADENKOVIC	- ASST. DIRECTOR
57.	DR. BARSONJ GOLUBOVIC	- DOCTOR IN CHARGE
58.	LJUBINKA JEVREMOVIC	- DEFECTOLOGIST
59.	DRAGAN AVAKUMOVIC	- TECHNICAL ASSISTANT
60.	VLADIMIR CURGAS	- YUGOSLAV COMMITTEE FOR COOPERATION
61.	JUDITH KUMIN	- UNHCR CHIEF OF MISSION, BELGRADE

**MONTENEGRO**

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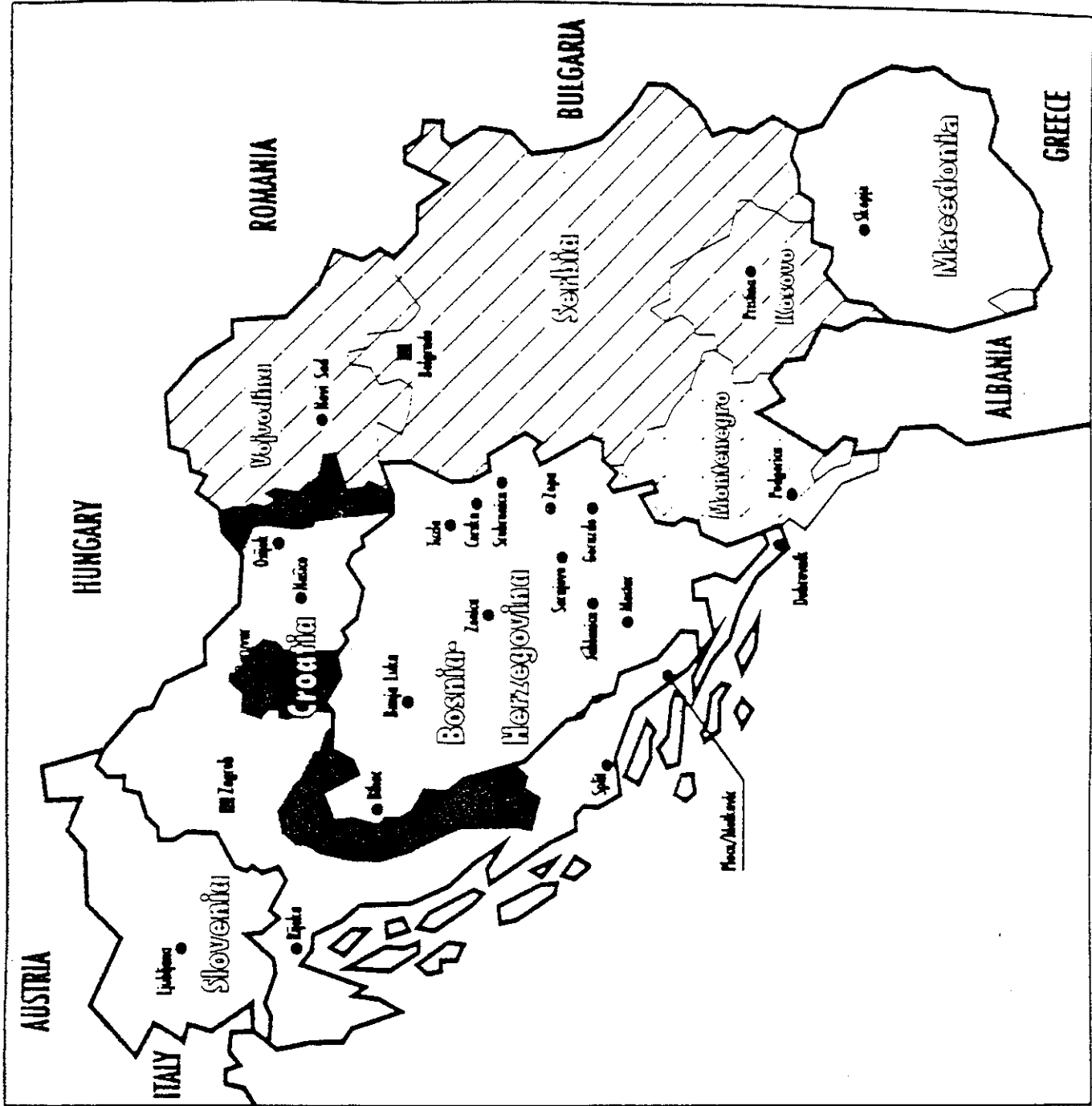
62.	ROSSANA JOSEPH NATTA	- UNHCR
63.	DR. ASIM DIZDAREVIC	- FORMER VICE PRESIDENT OF THE GOVERNMENT
64.	RADE PEROVIC	- DEPUTY PRIME MINISTER
65.	DJORDJE SCEPANOVIC	- COMMISSIONER FOR REFUGEES
66.	SLOBODAN KALEZIC	- SECRETARY GENERAL OF THE RED CROSS
67.	DR. BOGDANKA ANDRIC	- DEPUTY MINISTER FOR HEALTH
68.	MR. PETROVIC	- MINISTER FOR INTERIOR
69.	FILIP VUJANOVIC	- MINISTER FOR JUSTICE
70.	NADA PETROVIC	- ASST. MINISTER FOR SOCIAL WELFARE



# Former Yugoslavia

## Number of Refugees Displaced Persons and Affected Population

Area	Totals
Croatia	800,000
Slovenia	70,000
Bosnia-Herzegovina	2,280,000
Serbia	560,000
Montenegro	80,000
Macedonia	30,000
TOTAL	3,820,000



The boundaries and designations shown on this map do not imply official endorsement or acceptance by the United Nations.

Yugoslav P1 / 02.03.1992

UNPAS



## Refugees and displaced persons within former Yugoslavia

Present Location	From Croatia	From Bosnia and Herzegovina	Total
Croatia *	246,000	238,000 **	484,000 R
UNPAs	87,000	-	87,000 E
Serbia	166,000	291,000	457,000 R
Bosnia and Herzegovina	N/A	N/A	2,280,000 *** E
Montenegro	8,000	61,000	69,000 R
Slovenia	N/A	N/A	36,000 R
Macedonia	3,000	29,000	32,000 R
<b>GRAND TOTALS</b>	<b>N/A</b>	<b>N/A</b>	<b>3,445,000 ****</b>

R - REGISTERED

E - ESTIMATED

N/A - not available

- \* the number of refugees in Croatia has significantly decreased due to departures to other European countries, return home and cancelling of double registration. The registration process is not yet finished.
- \*\* includes also refugees from other republics of former Yugoslavia
- \*\*\* estimated number of beneficiaries including refugees, displaced and other vulnerable groups
- \*\*\*\* does not include some other 375,000 persons estimated to be in need of humanitarian assistance

## Remarks:

A. All figures are rounded to the next thousand

## B. Source of information:

Croatia - Office for displaced persons and refugees (ODPR)  
 UNPAs - UNHCR Field Offices  
 Serbia - Serbian Red Cross (through UNHCR Office in Belgrade)  
 Bosnia and Herzegovina - UNHCR Offices  
 Montenegro - Montenegrin Red Cross (through UNHCR Office in Belgrade)  
 Slovenia - Slovenian Red Cross (through UNHCR Office in Ljubljana)  
 Macedonia - Macedonian Red Cross (through UNHCR Office in Skopje)

22 April 1993







## UNHCR/UNICEF JOINT STATEMENT ON

# The Evacuation of Children from former Yugoslavia

1. There continues to be well meant efforts by Governments and non-governmental organisations to evacuate children from conflict areas, particularly Sarajevo. When any action affecting children is being contemplated, all parties must be guided by concern for «the best interests of the child», the first principle of the Convention on the Rights of the Child which states:

«In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities, or legislative bodies, the best interests of the child shall be a primary consideration.» (Article 3, para 1)

It is on this basis that UNHCR and UNICEF present the following key considerations which must be taken into account when evacuation of children is being contemplated.

## 2. Numbers Involved

There are more than 600,000 children under six years of age in Bosnia-Herzegovina, 281,000 of whom are in besieged cities, including 80,000 in Sarajevo. Given these numbers, it is clear that all children cannot be evacuated. Any evacuation which selects some children over others should not be done in such a way as to exacerbate ethnic tensions and conflict, and should be based on clear criteria.

## 3. Evacuation from Sarajevo by Airlift

The primary mission of the airlift is to bring desperately needed food and relief into Sarajevo for the besieged population. Furthermore, sufficient security between the city and the airport and in the airport does not exist for the use of the airlift for evacuation. In light of this security situation and in an effort to maintain the fragile airlift operation, UNPROFOR and UNHCR have delineated a policy that only those persons whose medical situation is life-threatening and who cannot be treated with the facilities available in Sarajevo should be considered for

evacuation by the airlift. Procedural guidelines for evacuation by airlift of such medical referral cases, including children, have been developed in consultation with WHO, UNICEF and ICRC and been distributed.

## 4. Evacuation in General

Several factors indicate that evacuation is not the most appropriate solution. In fact, evaluations of past evacuations have shown that evacuation often is more harmful than helpful to the children involved. These are some of the reasons:

The trauma of being separated from the family is often greater than the trauma of remaining with the family in an area affected by hostilities and conflict.

Initiatives for evacuation often come from evacuation organisers rather than from parents whose emotional stress in the duress of the situation may result in decisions which might not have been taken otherwise.

Evacuations of children are often conceived as mainly logistical operations and may not necessarily be carried out by groups that have a proven record in child welfare, including assessing the best interest of the child, and in placement experience.

There is great risk, particularly where large numbers are involved and there is a lack of resources, that the situation of the child will not be adequately documented and monitored. Children may become «lost» without the possibility of eventual return to their families. The length of separation is usually much longer than expected and may lead to estrangement of families and a loss of ethnic and cultural identity.

Where displacement and ethnic relocation are goals of the hostilities, parties might be pressured to evacuate children for this purpose.

Unexpected political complications may prejudice the outcome of evacuations. Whether the children are invited into a country, and when and if they return may become political issues, particularly where proper groundwork has not been done.

## Guiding Considerations

### 5. Family unity

No child should be moved without his/her primary caretaker. Respects for family unity is a guiding principle already reflected in the Convention on

the Rights of the Child. Every effort must be made so that the family unit remains intact and the child is not separated from the family.

## 6. Unaccompanied children

Every effort should be made to trace the parents or other close relatives of unaccompanied minors before evacuation is considered. Unaccompanied minors are children who are separated from both parents and are not being cared for by an adult who has responsibility to do so.

## 7. Adoption

Adoption should be carried out in accordance with Article 21 of the Convention on the Rights of the Child. Adoption should not be considered if (a) there is hope of successful tracing or evidence that the parents are still alive, (b) it is against the expressed wishes of the child or the parent, or (c) unless a reasonable time (at least two years) has passed to allow for tracing information to be gathered. Staying with relatives in extended family units is a better solution than uprooting the child completely.

## 8. Orphans

The issue of children occupying orphanages before the outbreak of hostilities and who can be clearly documented as orphans deserves special attention. Thorough assessment of the status of these children is very important and very difficult. Recent incidents have shown that alleged orphans turned out to have parents. Many unaccompanied children have living parents or close relatives with whom they may one day be reunited. If the status of an alleged orphan cannot be clearly documented, there is a risk of creating further problems of family reunification and tracing across country borders after hostilities have ended.

## 9. To be clarified before any evacuation of a child:

- a. Conditions of release and custody placement (identity of the child, documentation, family history, issuance and preservation of records);
- b. Conditions of admission and care in receiving country, including all financial and legal responsibilities;
- c. Measures to ensure/preserve relationships and communication with original family/original caretaker;
- d. Provisions for family reunion in the context of a durable solution.

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## 10. Conclusion

Unless the above factors are carefully considered and implemented, UNHCR and UNICEF can not endorse evacuations. Furthermore, UNHCR and UNICEF request or advise governments or NGOs to evacuate children (UNHCR and UNICEF, with other humanitarian agencies on the ground, will continue to do everything possible to improve medical and social conditions locally, so that the safety and integrity of the child is preserved within his or her family and community.

UNHCR/UNICEF 13 August 1992

## UNHCR/UNICEF JOINT STATEMENT n° 2

### Further Considerations Regarding the Evacuation of Children from former Yugoslavia

Supported by ICRC and  
the Federation of the Red Cross and Red Crescent Societies

In view of the persistent queries concerning the evacuation of children from the former Yugoslavia, UNHCR and UNICEF, supported by ICRC and the International Federation of Red Cross and Red Crescent Societies, see the need to highlight the applicable principles and to spell out some practical guidelines to be respected if evacuation of children is considered.

#### PROTECT AND ASSIST IN PLACE

1. Given the many serious problems associated with evacuations, as summarized in the Joint Statement of 13 August 1992, UNHCR and UNICEF continue to urge that priority be given to providing protection and assistance to enable families to meet the needs of their children in former Yugoslavia. As part of their humanitarian mandates, UNHCR, UNICEF and other organizations concerned with children continue to pursue every means to provide adequate protection and assistance to families in need. These efforts involve identifying the needs clearly and addressing them collectively so that people are able to choose to remain and keep their family units together. Greater support is required to strengthen and expand current programs in this regard. Organizations especially concerned with the welfare of children should contact UNHCR or UNICEF to see how they can join our efforts in former Yugoslavia.

#### PRESERVE FAMILY UNITY IN EVACUATIONS

2. If it has been carefully determined that assistance and protection cannot be provided in place and evacuation is deemed necessary, the guiding principle must be the best interests of the child, e.g. that the evacuation would not lead to more harm than good for the child concerned. Experience has shown that

the most effective way to reduce the likelihood of harm is to keep children with their parents or primary care-givers. Thus, any consideration of evacuation should be driven by action that enables evacuation of family units.

#### EVACUATE ONLY UNDER PROPER CONDITIONS

3. It is recognized that there may be exceptional situations where there is a need to evacuate children without their parents or families. Such evacuations raise a number of fundamental issues related to child-care standards, including an assessment of the best interests of the child in terms of destination, reception and care arrangements, maintaining contact with the family, early reunification, etc.. UNHCR and UNICEF firmly believe that all the factors set out in the Joint Statement of 13 August 1992 and those elaborated below should guide all action during any evacuation. If these principles cannot be respected, the evacuation should be reconsidered.

#### ORGANIZING/IMPLEMENTING EVACUATIONS

4. The following principles should be respected and the best interests of the child should prevail throughout:
- (a) The choice of which children are to be evacuated should be reasonable, fair, and based on clearly assessed needs of the individuals concerned, as opposed to the needs of remaining children.
  - (b) The professional standards and capacity of evacuating agencies/individuals must be confirmed before entrusting the children to them.
  - (c) The decision of parents to send their children away must be based on full information and must be free and without coercion. Families of prospective evacuees should be provided information about the evacuating agency to whom they are entrusting their children, the intended child care-arrangements and the risks and possible consequences of evacuation.
  - (d) Every effort must be made to abide by the parents' wishes. The wishes of parents regarding the children's care, culture and religious training must be followed.
  - (e) Children should be afforded the opportunity to have their opinion heard and considered.
  - (f) Parents or guardians (by law or custom) must give written consent prior to evacuation.
  - (g) For each child, personal and family particulars, with photos,

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must be recorded in a personal profile and history file. This file should also include full particulars of the agency to which the child is entrusted and copies of the written consent of the parents. One copy of this file should be given to parents. One copy should travel with the child. One copy should be retained by national authorities. One copy should remain with the agency to whom the child is entrusted, and one copy should be placed with a neutral monitoring agency (such as the Central Tracing Agency of the ICRC).

(i) Children should be moved to safe areas as close as possible to their homes and families. The location of evacuation should be determined by the best interests of the child, not only by the availability or subjective interests of donor organizations or families.

(j) Suitable evacuation, reception and care arrangements must be demonstrably available prior to the movement of children. Every possible measure should have been taken to assess travel conditions and ensure safety and appropriate care en route. If entry into another country is involved, the necessary approval, including visas, should be obtained before children are separated from their parents.

(k) Guardianship of the children (who will act in loco parentis) must be established prior to the movement of the children.

(l) Caring adults known to the children should accompany those evacuated without their families.

## RECEPTION AND CARE

5.

(a) The reception of the children should be well planned, positive and humane so as to safeguard the well being of each child.

(b) Evacuated children should be provided all the social services and legal protections available to children in the host country who are not in the care of their parents.

(c) The care and placement of children should be supervised by national or local child welfare services to ensure that they receive care that meets at least the minimum standards provided for national children.

(d) Siblings should be kept together.

(e) The most appropriate form of placement must be determined for each child. Age, personality, needs and preference of the child must be considered. For most children, family care will likely be most desirable. For some children, group care may be more appropriate. Clearly the most important criterion is that children are provided care that is age appropriate, loving and

nurturing, by continuous, rather than frequently changing, caregivers.

(f) Every effort must be made to preserve the culture, language and religion of the children, with full respect for the expressed preferences of the children's families. Special efforts should be made to provide families of similar ethnic, language and religious backgrounds.

(g) Communications between the child and his or her family must be maintained, and special efforts should be taken to facilitate such communication.

## FAMILY REUNIFICATION

6.

(a) Evacuations, reception and care should be planned with a view to the earliest possible reunification between parents and children. It must be clearly explained to guardians or foster parents that, although the duration of the evacuation may be long, the objective is to return the child to his or her parents as soon as the situation permits.

(b) Documentation for children should include sufficient travel documentation to enable easy return to countries of origin, as appropriate