

The Hague, 28 October 2021
556-PC-LU/2021

Dear Madam/Sir,

I am writing in response to efforts by the Office of the United Nations High Commissioner for Human Rights (OHCHR) to promote the rights of the child and family reunification, to be discussed at the 2022 meeting on the Rights of the Child. The International Commission on Missing Persons (ICMP) welcomes this initiative by OHCHR.

When children are separated from their families and their whereabouts are unknown, the result is missing parents *and* missing children. Either benefit from human rights guarantees, including the right to an effective, official investigation under the Right to Life. Families affected by separation often belong to vulnerable groups, such as migrants and refugees, that face significant hurdles in accessing their rights even in developed countries. There are many reasons why migrants go missing: for example, they may be victims of crime in countries of origin, transit or destination or they may be without adequate protection as a result of flawed border management and policing arrangements.

It is primarily the obligation of states to uphold rights protected under international law including the right to family life for children in cross-border situations, particularly migrant children who are separated from their families. In many circumstances, trust in government agencies associated with family separation has been undermined. Therefore, governments must be encouraged to take the lead in addressing this issue if trust is to be restored. This calls for greater engagements of rule-of-law institutions, including courts, and for cooperation with international and other organizations capable of working with domestic authorities including law enforcement agencies.

An example of states taking responsibility to reunify families separated at international borders is US President Joe Biden's Executive Order 14011, of 2 February 2021, establishing an Inter-Agency Task Force on the Reunification of Families affected by the "zero tolerance" immigration policy introduced under the previous Administration. The earlier policy led to the separation of more than 3,000 migrant children from their accompanying adults. Some of the children's adult relatives have been deported and the children placed with foster families; some of them are too young to provide details about their families. A number of US and Central American civil society organizations have endeavored to locate these children and reunite them with their families.

Office of the United Nations High Commissioner for Human Rights (OHCHR)
United Nations Office at Geneva
CH 1211 Geneva 10
SWITZERLAND

A similar governmental effort is underway in Europe through the Joint Process to Account for Persons Missing as a Result of Migration in the Mediterranean Region. The Joint Process is a state-led initiative launched by four European countries – Cyprus, Greece, Italy and Malta – in 2018 at the invitation of ICMP. Since its inception, the Joint Process has focused on enhancing international cooperation by improving channels of communication and establishing working mechanisms to find the missing and reunite families. Next steps for the Joint Process include working towards a centralized database capability that will help participating countries to share data with countries along migratory routes and with relevant international organizations, in line with data protection and applicable international norms.

Crucial elements of these and similar efforts are:

- Ensuring that separated family members are identified so that reunification efforts can proceed;
- Ensuring that those children whose whereabouts remain unknown are located and their parents identified;
- Ensuring that effective data processing systems are deployed to support case management and reunification processes, including tracking reunification status, progress, and next steps in respect of all families across agencies, asylum and other immigration or reunification procedures; and
- Applying credible data protection regimes that guarantee, among other things, data subject control over personal data.

Please do not hesitate to contact me for any clarification or additional information you may require.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'J. Kurbasic', written in a cursive style.

Jasmina Kurbasic
Head of Legal Unit/Legal Advisor