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Geneva, 18 January 2017

His Excellency Dr. Miro Cerar  
Prime Minister of Slovenia  
Office of the Prime Minister  
Gregorčičeva 20, 25, SI-1000 Ljubljana  
Republic of Slovenia

Excellency,

I am writing to you on the rights of refugee and migrant children in Slovenia.

First, I would like to express my appreciation for the excellent cooperation between UNICEF and the Republic of Slovenia in response to the refugee and migrant crisis in Europe. UNICEF acknowledges the significant efforts undertaken by the Slovenian State to date. We have strongly supported many of the measures and decisions taken by the Slovenian State to continue to provide refugee and migrant children, particularly those unaccompanied and separated, with access to all basic services such as education, health and accommodation.

In the spirit of this ongoing collaboration, we note with concern the proposed amendments to the Slovenian Foreigners Act, currently under consideration. In UNICEF's view some of these amendments could breach the Convention on the Rights of the Child which had been ratified by Slovenia.

UNICEF is concerned that based on the draft amendments, these criteria will not be stringently applied. As a consequence, people arriving at the borders would be denied entry and automatically expelled, without assessing, on an individual basis, their asylum claims and risks upon return. As such, the proposed amendments would violate the right of the child to seek international protection through fair and efficient individual procedures, the fundamental principles of non-refoulement, of non-discrimination and best interests of the child.

According to the Convention on the Rights of the Child, the best interests of the child need to prevail in any decision affecting children. This applies also in cases of return regardless of whether the child is accompanied or not. UNICEF welcomes the fact that the draft amendments exempt unaccompanied and separated children from return procedures. However there are not sufficient guarantees provided for cases of children with their families.

The application by any child for international protection should be considered on his/her own merits. In UNICEF's view, the determination of the best interests of the child should also be conducted in cases where the child is accompanied and the decision on the possible return of family members should take into account the child's best interests.

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Regardless of whether the child is accompanied or not, his/her return should only take place when it is determined to be in the child's best interests. Such determination should be conducted through formal procedures, by qualified and independent child protection actors and should consider any potential risk and harm to the child including risk to trafficking, exploitation, detention and/or being subjected to torture or inhuman and degrading treatment. For asylum-seeking children, specific guarantees should be in place so that the child will have access to fair and child sensitive asylum procedures as well as be provided with adequate accommodation, humanitarian assistance, protection, and their basic rights and services such as education and health.

While border police play a role, appropriate expertise to conduct complex determination of the best interests of the child, assess risk to individuals and to identify unaccompanied and separated children, lies outside their mandate.

In light of the above, UNICEF urges you to carefully and judiciously consider any proposed amendments to the Foreigners Act and reject any amendment that would place the Slovenian state in opposition to its own principled and historic position in safeguarding the rights of the child and upholding its international obligations to human rights.

We look forward to a positive outcome of this intervention and our continued fruitful and constructive work together.

Please accept, Excellency, the assurances of my highest consideration.



David McLoughlin  
Deputy Regional Director for CEE/CIS