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QUESTION OF A CONVENTION ON THE RIGHTS OF THE CHILD

Protection of the rights of children and parents
in cases of removal or retention of children

Report by the Secretary-General

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I. INTRODUCTION

1. In its resolution 1982/39, the Economic and Social Council inter alia called the attention of States to the proliferation of cases of removal and retention of children and invited them to co-operate actively with a view to preventing the occurrence of such cases and to solving them speedily, out of concern for the interest of the child. In this connection, it invited the Commission on Human Rights, when drafting the convention on the rights of the child, to take into consideration the protection of the rights of the child in cases of unauthorized international removal. It further requested the Secretary-General to consult with Governments on this problem and to report to the Commission on Human Rights at its thirty-ninth session, under the agenda item entitled "question of a convention on the rights of the child".

2. Notes verbale relating to this question were sent to all Member States of the United Nations. The present report contains summaries of replies received from Governments as of 21 December 1982 on action taken pursuant to the above-mentioned resolution. 1/ Any additional replies will be reproduced as addenda to the present document.

1/ The full texts of the communications received are available for consultation in the files of the United Nations Secretariat.

II. SUMMARIES OF REPLIES RECEIVED FROM GOVERNMENTS UNDER
ECONOMIC AND SOCIAL COUNCIL RESOLUTION 1982/59

AUSTRIA

[Original: English]

[2 December 1982]

The Government refers to the Hague Convention on the Civil Aspects of International Child Abduction of 25 October 1980 and makes observations on a number of points including, in particular, the enforcement of decisions concerning custody of children, measures guaranteeing the expeditious return of children in cases of removal, grounds for refusing the return of a child, and the question of the costs incurred through recourse to the assistance of a lawyer.

CYPRUS

[Original: English]

[5 November 1982]

The Government states that it supports Economic and Social Council resolution 1982/39 and that it is also considering the ratification of the European Convention on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children, of 20 May 1980.

DELMARK

[Original: English]

[1 November 1982]

The Government states that it is considering whether to accede to the European Convention on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children, drafted within the framework of the Council of Europe, or to the Hague Convention on the Civil Aspects of International Child Abduction of 25 October 1980.

ETHIOPIA

[Original: English]

[20 November 1982]

The Government expresses its full support for Economic and Social Council resolution 1982/39 and declares that States should organize some form of co-operation for preventing the occurrence of cases such as those referred to in the resolution. The Government further notes that it is in favour of the elaboration of an international convention on the question.

FEDERAL REPUBLIC OF GERMANY

[Original: English]

[7 December 1982]

The Government states that it welcomes Economic and Social Council resolution 1982/39. It further states that it is willing to co-operate with other States on the basis of the Hague Convention on the Civil Aspects of International Child Abduction of 25 October 1980, and that it therefore intends to ratify the Hague Convention.

GREECE

[Original: English]

[9 November 1982]

The Government states that it attaches great importance to the inclusion, in drafting the convention on the rights of the child, of sufficient and effective safeguards for the prevention of unauthorized removals from State to State.

The efforts being made to construct a complete and up-to-date system for the protection of the child against unauthorized removal across frontiers, may find inspiration in the European Convention on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children, of 20 May 1980, which Greece has already signed and intends to ratify shortly.

THE NETHERLANDS

[Original: English]

[9 November 1982]

The Government notes that it intends to ratify the two recently concluded international instruments which deal with the problem of preventing the occurrence of cases of removal of children, namely: the Hague Convention on the Civil Aspects of International Child Abduction, and the European Convention on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children. Interested States should organize co-operation in this field by acceding to one or both Conventions. Furthermore, if the Commission on Human Rights intends to include in the draft convention on the rights of the child provisions concerning the removal of children, it should pay due attention to existing instruments in order to ensure the effective prevention of the unauthorized removal of children.

NORWAY

[Original: English]

[30 November 1982]

It is the Government's view that the question of the unauthorized removal of children should be taken into consideration when drafting a convention on the rights of the child. At the same time, the need for co-ordination with the work already done by other international organizations should also be taken into account. The Government is, in principle, in favour of adhering to one or both Conventions on the subject, namely, the Hague Convention and the Convention elaborated by the Council of Europe.

PAKISTAN

[Original: English]

[15 November 1982]

The Government states that it does not permit the removal or retention of children from their parents' family by other persons. The family courts decide on custody in cases arising out of divorce. The Government supports the proposal that all countries should co-operate closely through accession to the Hague Convention on the Civil Aspects of International Child Abduction of 25 October 1980, which is open to all States.

QATAR

[Original: English]

[22 October 1982]

The Government states that it endorses Economic and Social Council resolution 1982/39. Islamic law recognizes the need to protect children. The Government proposes that one of the aspects of the question which should be considered is the importance of ensuring adequate services for the fundamental needs of children suffering from the problem of removal.

SINGAPORE

[Original: English]

[15 December 1982]

The Government states that there are adequate laws in Singapore to cover the protection of the rights of children and young persons, namely, the Laws of Children and Young Persons Act, the Women's Charter and the Penal Code. In addition to these laws, the Ministry of Social Affairs of Singapore contains two divisions - the Counselling and Advice Division and the Protection and Welfare of Children and Young Persons Division - which deal with all problems connected with children and young persons. Any parent who is aggrieved by the unauthorized removal of a child by one spouse can have recourse to the Courts, provided he or she is a Singapore citizen or has resided in Singapore continuously for a period of not less than six months. There is provision for an expedited order where the Court is satisfied that there is imminent danger of the child being taken out of the country. The Court is also empowered to order a child to be kept at a place of safety to await a decision. The Penal Code also has a provision which safeguards a child against kidnapping from lawful guardianship.

SWITZERLAND

[Original: French]

[10 December 1982]

The Government states that it has taken the necessary steps for the ratification, in the near future, of the Hague Convention on the Civil Aspects of International Child Abduction, of 25 October 1980, as well as of the European Convention on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children, of 20 May 1980. The Swiss Government also proposes to begin negotiations with certain States not intending to become parties to either of the above-mentioned conventions, with a view to examining the possibility of concluding bilateral agreements with those States for mutual aid in the event of international child abduction by a parent or close relative.

Within the framework of the draft convention on the rights of the child, Switzerland supports the proposal to grant to a child having parents of different nationalities who are separated the right to maintain personal relations with both parents.

THAILAND

[Original: English]

[25 November 1982]

The Government states that the protection of children and of youth is the responsibility of various governmental organizations. The services provided to disadvantaged children include family assistance, protection measures, adoption arrangements and the promotion of voluntary child welfare institutions.