

SEPARATION OF A CHILD FROM PARENTS AND UNSOLVED CUSTODY

CHECKLIST TO DETERMINE IF A BID IS REQUIRED

A BID is required in cases of possible separation of a child from parents against their will and unsolved custody issues, if any of the following statements applies (please tick relevant boxes) in situations where UNHCR is responsible for BIP:

Severe harm from the parents/ caregivers:

- If the State authorities are unwilling or unable to take action in cases of severe forms of abuse or neglect within the family;¹
- If the child is, or is likely to be, exposed to **serious physical or emotional injury** caused, for example, by, severe beating, death threats, maiming, lengthy confinement by the parents/ or legal/customary caregivers, as punishment, coercion to engage in the worst forms of child labour, continuous exposure to severe domestic violence within the home;
- If the child is, or is likely to be, exposed to **sexual abuse or exploitation** by the parents/ or legal/customary caregivers, such as the inducement or coercion of a child to engage in any unlawful sexual activity; exploitative use in prostitution or other unlawful sexual practices; exploitative use in pornographic performances and materials.
- If the child is, or likely to be, exposed to severe abuse or neglect by a relative, neighbour, or friend of the family and the parents/ legal/customary caregivers are unwilling to provide protection and to prevent such harm from arising.

Parents' separation and unsolved custody disputes:

- If the parents separate and the child is abandoned.
- If the parents separate and both parents want the child to stay with him or her.
- In all cases in which the resettlement of one parent is based on a protection risk emanating from within the family (e.g. domestic violence cases).
- If resettlement is being considered for a child with only one parent, and the parent not resettling refuses to give consent for the resettlement of the child; or there are indications that the child might be at risk within the family being considered for resettlement.
- The parents do not agree with whom the child should be submitted for resettlement, in those cases where the two parents will be submitted separately.
- If the resettlement country's national legislation forbids polygamy, this could lead to the children of the other spouses being separated from their father/ mother.
- If the parents agree on a solution following their separation, but UNHCR has reasonable grounds to believe that the parents' choice exposes or is likely to expose the child to severe harm.
- If the child is to be transferred to a third country without the consent of the parents or of any other person, institution or body holding custody rights.²

Remarks:

Checklist completed by: (Name & function)
(Signature)
Date:

Reviewed by: (Name & function)
(Signature)
Date:

¹ Instances of abuse include physical violence (i.e. injury to a child which is not accidental), mental violence (i.e. liable to cause psychological harm), as well as sexual abuse. Neglect involves intentionally depriving a child of his/her essential needs (for example, food, clothing, shelter, and medical care).

² Transfer of a child without the consent of the person, institution or any other body holding the rights of custody will not constitute an abduction if custody rights are not being exercised. Depending on the circumstances this can occur if the relevant person or body has not, without any reason, been in contact with the child or care-giver of the child for an extended period of time.