



JUST-JCOO-AG-2020
Actions grants to promote judicial cooperation
in civil and criminal justice
JUSTICE PROGRAMME
GA No. 101007436

Improving the Situation of Children in
International Child Abduction cases through
Judicial CoopeRation and Family Mediation
iCare

WP 2 Research, Data Collection and
Methodology

D2.1 Report on stakeholder needs

WP leader: Defence for Children - Italy



LAW AND LIBERTY
FOUNDATION
FONDATION POUR LE DROIT ET LA LIBERTÉ



CERTH
CENTRE FOR RESEARCH & TECHNOLOGY HELLAS



Project co-funded by the European Commission within the JUST Programme		
Dissemination Level:		
PU	Public	X
CO	Confidential, only for members of the consortium (including the Commission Services)	
EU-RES	Classified Information: RESTREINT UE (Commission Decision 2005/444/EC)	
EU-CON	Classified Information: CONFIDENTIEL UE (Commission Decision 2005/444/EC)	
EU-SEC	Classified Information: SECRET UE (Commission Decision 2005/444/EC)	
Document version control:¹		
Version	Author	Date
Version 1	Law and Internet Foundation	19.07.2021
Version 1.1	Defence for Children Italy	26.07.2021
Version 1.2	Missing Children Europe	30.07.2021
Version 2	Law and Internet Foundation	06.08.2021
Version 2.1	MiKK e.V	11.08.2021
Version 3.0	Law and Internet Foundation	17.08.2021
Version 4.0	Law and Internet Foundation	20.01.2022

¹ The Center for Research & Technology Hellas – CERTH (Greece) have not provided their comments on the current D2.1 Report on Stakeholder Needs as this contribution is not required from them under WP2 in their capacity as a technical partner. Instead, CERTH have actively participated in the preparation and distribution of the questionnaire under T2.1 Elaboration and distribution of Questionnaires, which is their only envisaged contribution under WP2.

Table of contents

1. ABOUT THE PROJECT	5
1.1 PURPOSE AND SCOPE OF THE STUDY	5
2. BRIEF SUMMARY OF THE LEGAL FRAMEWORK: RETURN PROCEDURE UNDER THE BRIIA REGULATION 2201/2003 AND THE 1980 HAGUE CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION	6
2.1. 1980 HAGUE CONVENTION FRAMEWORK	8
2.2. REGULATION 2201/2003 FRAMEWORK	9
3. INTERNATIONAL FAMILY MEDIATION IN THE VIEW OF THE INTERNATIONAL CHILD ABDUCTION PROCEDURE	9
4. NATIONAL SPECIFICITIES IN THE PROCEDURE FOR RETURNING THE CHILD AND THE USAGE OF INTERNATIONAL FAMILY MEDIATION	12
4.1 Bulgaria.....	13
4.1.1. ADMINISTRATIVE PROCEEDINGS	13
4.1.2. JUDICIAL PROCEEDINGS.....	13
4.1.3. MEDIATION	14
4.2 Italy.....	15
4.2.1. ADMINISTRATIVE PROCEEDINGS	15
4.2.2. JUDICIAL PROCEEDINGS.....	15
4.2.3. MEDIATION	17
4.3 Greece	19
4.3.1. ADMINISTRATIVE PROCEEDINGS	19
4.3.2. JUDICIAL PROCEEDINGS.....	20
4.3.3. MEDIATION	20
4.4 Germany	21
4.4.1. ADMINISTRATIVE PROCEEDINGS	21
4.4.2. JUDICIAL PROCEEDINGS.....	22
4.4.3. MEDIATION	23
4.5 Belgium.....	24
4.5.1. ADMINISTRATIVE PROCEEDINGS	24
4.5.2. JUDICIAL PROCEEDINGS.....	24
4.5.3. MEDIATION	25
4.6 Additional countries: the Netherlands	26
4.6.1. ADMINISTRATIVE PROCEEDINGS	26
4.6.2. JUDICIAL PROCEEDINGS.....	27
4.6.3. MEDIATION	28
4.7 Additional countries: Poland	28
4.7.1 ADMINISTRATIVE PROCEEDINGS	29
4.7.2 JUDICIAL PROCEEDINGS.....	29
4.7.3 MEDIATION	30

5. CURRENT STATUS ON STAKEHOLDER NEEDS – LESSONS LEARNT	30
6. CONCLUSION	31
7. BIBLIOGRAPHY	32
8. ANNEXES.....	33
8.1 iCare Questionnaire	33
iCARE QUESTIONNAIRE ON EXISTING NEEDS	35
ADMINISTRATIVE PROCEEDINGS (CENTRAL AUTHORITIES)	35
JUDICIAL PROCEEDINGS	37
I. Legal Aid	37
II. Court Proceedings	38
MEDIATION	40

1. About the project

Taking the child's best interests as a priority, the iCare project will develop and implement novel tools and activities to improve the situation of children in International Child Abduction (ICA) cases through strengthening judicial cooperation and supporting the incorporation of International Family Mediation (IFM) as complementary to judicial proceedings. This will result in a child-friendly, cost-effective and time-efficient judicial process in ICA cases.

The iCare project aims at enhancing judicial cooperation and information exchange among Central Authorities, legal practitioners (judges, lawyers etc.) and family mediators and at improving the position of children in ICA cases. The project will produce a detailed Methodology, inclusive of a Recommendations list, and an E-Platform for Central Authorities, legal practitioners and family mediators, together with an integrated AI Chatbot – the latter with the purpose of making the right of the child to information effective and increasing the knowledge of parents by serving as a first point of inquiry for children and parents. The project will also provide outputs for awareness-raising, facilitation of mutual learning and effective dissemination (E-Platform, national Workshops, Webinars, Videos, Newsletter and a Final Conference).

This project is carried out by Law and Internet Foundation - LIF (Bulgaria), Centre for Research & Technology Hellas - CERTH (Greece), Defence for Children International - DCI (Italy), International Mediation Centre for Family Conflict and Child Abduction - MIKK e.V. (Germany), and European Federation for Missing and Sexually Exploited Children AISBL - MCE (Belgium).

The project is implemented with the support of the Justice Programme of the European Commission under Grant Agreement №101007436.

1.1 Purpose and scope of the study

With the help of the present Report the project Consortium seeks to determine current existing setbacks and corresponding needs of stakeholders in international child abduction cases such as Central Authorities, legal practitioners (lawyers, judges, prosecutors etc.) and family mediators when dealing with ICA cases. This report is based on the replies to a detailed questionnaire completed by 62 stakeholders from the EU Member States participating in the iCare project (Bulgaria, Italy, Greece, Germany, Belgium) and from additional countries such as the Netherlands and Poland. In particular this document will reflect at the current procedures for resolving ICA cases within these countries and the implementation of amicable solutions for conflict resolutions particularly International Family Mediation (IFM) in relation to the applicable EU and national legal instruments and good practices. The report will provide a comparison between the countries participating in the project and provide an insight into the existing national procedures for handling ICA cases and including IFM as an alternative dispute resolution. This report, it is hoped will help national practitioners in family matters (lawyers, judges, prosecutors, mediators, Central Authorities etc.) to understand the specific features of the legal orders of the countries involved in the project as well as the procedural difficulties arising in the ICA cases in those countries.

2. Brief Summary of the Legal Framework: Return procedure under the BRIIa Regulation 2201/2003 and the 1980 Hague Convention on the Civil Aspects of International Child Abduction

Currently, the return procedure concerning internationally abducted children is regulated by a multilateral international convention and by an EU instrument. More precisely, reference is made to the 1980 Hague Convention on the Civil Aspects of International Child Abduction² (hereinafter “the 1980 Hague Convention”), which is now in force in 101 countries (including all EU countries); and Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000³ (hereinafter “Brussels IIa Regulation”), which from the 1st of August 2022 will be replaced by Regulation 2019/1111⁴. It must be noted, however, that the upcoming recast Regulation will not be considered in this section, as the section is solely aimed at delineating the *status quo* of the legal framework. More specifically, this approach is intended in order to evaluate the current legal framework that is set in place, the way it applies in practice in cases of international child abduction, possible safeguards that correspond with the best interests of the child involved in the case at hand, and whether it lays down any alternative dispute resolution mechanisms such as mediation. This scrutiny and evaluation of the existing legal framework will provide a clearer understanding of the stakeholder needs as obtained from the questionnaires and reported here, as it is in this precise framework that they operate and must comply with. What is more, this evaluation will lay the groundwork for the subsequent comparative analysis envisioned under D2.2 Comparative Analysis Report. The recast Regulation and the new changes it proposes to implement within national contexts with its coming into force will also be comprehensively examined in D2.2.

Beside the above-mentioned instruments, it is worth mentioning the existence of other instruments which might be relevant in the solution of ICA cases.

More precisely, among the international (multilateral) conventions reference shall be made to (i) the 1996 Hague Convention on jurisdiction, applicable law, recognition, enforcement and cooperation in respect of parental responsibility and measures for the protection of children⁵ (ii) the 1980 Luxembourg Convention on recognition and

² Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction (concluded 25 October 1980, entered into force 1 December 1983), Hague XXVIII, available at <https://www.hcch.net/en/instruments/conventions/full-text/?cid=24>.

³ Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000 [2003] OJ L 338.

⁴ Council Regulation (EU) 2019/1111 of 25 June 2019 on jurisdiction, the recognition and enforcement of decisions in matrimonial matters and the matters of parental responsibility, and on international child abduction [2019] OJ L 178.

⁵ Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children (concluded 19 October 1996, entered into force 1 January 2002), available at <https://www.hcch.net/en/instruments/conventions/full-text/?cid=70>.

enforcement of decisions concerning custody of children and restoration of custody of children⁶ and to (iii) the 1996 Strasbourg Convention on the exercise of the rights of the children⁷.

In some cases, States have also adopted bilateral instruments, which may facilitate the return of abducted children⁸.

⁶ Council of Europe, European Treaty Series - No. 105, European Convention on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children, Luxemburg, 20.V.1980, available at <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680078b09>.

⁷ Council of Europe, European Convention on the Exercise of Children's Rights, 25 January 1996, ETS 160, available at <http://www.worldlii.org/int/other/COETS/1996/1.html>.

⁸ For a list of bilateral conventions, see <https://www.hcch.net/en/publications-and-studies/details4/?pid=5215>.

2.1. 1980 Hague Convention framework

The 1980 Hague Convention is a multilateral treaty which is legally binding on all Contracting States seeking to protect children from the harmful effects that could be caused by wrongful removal or retention across international borders. It was conceived by the Hague Conference on Private International Law (HCCH) with the main goal of establishing procedures to ensure for the swift return of abducted children to their country of habitual residence. It applies to children under to 16 years of age (Article 3). International child abduction is defined as the wrongful removal of a child from his/her country of habitual residence and in breach of the rights of custody of the left-behind parent which were or would have been exercised at the time of removal or retention (Article 3). For the prompt and safe return of children, which is of primary importance in such cases, Article 7 promotes co-operation between Central Authorities. Article 8 sets out the first point of contact of the applicant for the filing of a return application to be either the Central Authority of the child's habitual residence or the Central Authority of any other Contracting State. The Article also lays down what the application to the relevant Central Authority should contain in order to ensure the safe return of the child. Since the expeditious return of the child is paramount, this requirement is also highlighted in Article 11 which requires judicial or administrative authorities to reach a decision for return within a time limit of a maximum of 6 weeks from the proceedings' commencement.

The provisions of the Convention require the forthwith return of an abducted child under the age of 16 where less than one year has elapsed since the removal/retention, unless one of the limited exceptions to the return (contained in Articles 12,13 and 20 of the Convention) can be established:

- More than one year has elapsed since the return application and the child is settled in his or her new environment - Art 12.
- The left-behind parent was not actually exercising his or her rights of custody at the time of removal/retention or has consented to or subsequently acquitted in the child's removal or retention - Art 13 (a).
- There is a grave risk that the return will cause physical or psychological harm to the child or otherwise place him or her in an intolerable situation- Art 13 (b).
- The child objects to being returned and has reached an age and degree of maturity at which it is appropriate to take account of his or her views – Art 13.
- The return of the child under the provisions of Article 12 may be refused if this would not be permitted by the fundamental principles of the requested State relating to the protection of human rights and fundamental freedoms – Art. 20.

Article 14 clarifies that in order to determine whether a removal or retention has been wrongful, either the relevant legislation or any judicial or administrative decisions from the country of the child's habitual residence must be taken into account and Article 15 requires, if possible, to obtain a decision from the state of habitual residence that the removal has in fact been wrongful. Article 17 makes clear that a right to custody that has been granted in the requested State would not necessarily require a refusal of return.⁹

⁹ For specific instruments concerning mediation, see <https://www.hcch.net/en/instruments/conventions/publications1/?dtid=52&cid=24>.

2.2. Regulation 2201/2003 framework

The Brussels IIa (BrIIa) Regulation is directly applicable in all EU Member States (with the exception of Denmark). It contains some provisions which complement and modify the 1980 Hague Convention in cases of international child abduction, which is the legal base of the Regulation. Specifically, Article 11 of the BrIIa requires that the child must have the opportunity to have his/her opinion and views heard in the return proceedings.¹⁰ An important modification to the provision of the 1980 Hague Convention is that under the BrIIa Regulation a return of the child cannot be refused (if based on Article 13b of the 1980 Hague Convention) if it can be established that “adequate safety measures” have been made for the child upon his or her return.¹¹ Furthermore, pursuant to Art 11(8) BrIIa, notwithstanding the judgment of non-return (under Art 13) of the court of another EU Member, the courts of the country of habitual residence can make a subsequent judgment requiring the return of the child. This so-called “trumping order” under Article 11(8), once certified according to Article 42 (2), shall be recognised and enforced in another Member State without the need for a declaration of enforceability and without any possibility of opposing its recognition.¹²

Irrespective from the child abduction proceedings, Article 56 provides for the option for the child to be placed in another Member State in case there is a need for him/her staying in an institutional care or with a foster family and after the specific consent of the relevant competent authority.¹³

3. International Family Mediation in the view of the International Child Abduction procedure

Family mediation is a crucial process for resolving family conflicts. Mediation itself as defined in the EU Mediation Directive is a “*structured process, ..., whereby two or more parties to a dispute attempt by themselves, on a voluntary basis, to reach an agreement on the settlement of their dispute with the assistance of a mediator. It includes mediation conducted by a judge who is not responsible for any judicial proceedings concerning the dispute in question. It excludes attempts made by the court or the judge seised to settle a dispute in the course of judicial proceedings concerning the dispute in question.*”¹⁴

A “Mediator” is defined in the EU Mediation Directive as “*any third person who is asked to conduct a mediation in an effective, impartial and competent way, regardless of the denomination or profession of that third person in the Member State concerned and of the way in which the third person has been appointed or requested to conduct the mediation.*”

International family mediation aims at resolving a family conflict with a cross-border element, involving at least two countries. One of the cases where international family

¹⁰ Regulation 2201/2003. art 11(2).

¹¹ Regulation 2201/2003 art. 11(8) and art 11(4).

¹² Regulation 2201/2003 art 42(1).

¹³ Regulation 2201/2003 art 56(1).

¹⁴ Mediation Directive, DIRECTIVE 2008/52/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 21 May 2008 on certain aspects of mediation in civil and commercial matters, Art 3

mediation is used in the relocation cases where one of the parents relocates with the child in a country different from the one of habitual residence without the consent of the other one, as delineated in the previous section. International family mediation places the needs of the children at the center of the process, seeking solutions they can ensure the children's wellbeing in accordance with the rights enshrined in the 1989 UN Convention on Rights of the Child.¹⁵

The 1980 Hague Convention states in Article 7 lit. b) that the Central Authorities shall take all appropriate measures to secure the voluntary return of the child or to bring about an amicable resolution of the issues. This is partially repeated under Article 10: "The Central Authority of the State where the child is shall take or cause to be taken all appropriate measures in order to obtain the voluntary return of the child."

The encouragement to use alternative mechanism of dispute resolution in such cases is also enshrined in Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility (Brussels IIa). More specifically, its Article 55 (e)¹⁶ proclaims that the Central Authority of the Member State should facilitate an agreement between the holders of parental responsibility through mediation or other means and facilitate cross border operations to this end.

There are clearly differences between national family mediation and international family mediation. International family disputes are much more complex and require specifically trained mediators. Difficulties such as different legal systems, language barriers, different cultures and religions make these mediations more complex and difficult than national mediations. Physical distance also is an issue, together with the fact that in some countries child abduction is a criminal offence. In the Mediation this needs to be ensured that criminal proceedings are withdrawn by the applicant parent (if possible) ensuring the other parent can return to the country with the child (following a return order) or visit without facing imprisonment.

The cross-border enforceability of mediation agreements may also be not straightforward and require expert lawyers and guidance (see below, AMICABLE project).

International family mediation in ICA cases should be enhanced as early as possible. When child abduction has occurred, parents should be informed about the possibility for mediation as early as possible. It must be highlighted that in general in ICA cases mediation is not a substitute for legal proceedings, but it runs in parallel with court proceedings.¹⁷

International family mediation can take place in one or several countries depending on whether one of the parties has relocated to another one as it happens in such cases.

Mediation should be available immediately after the wrongful removal or non-return of the child, or when an application for return is filed, but it can take place at any stage, even in the enforcement stage. Parents are often informed by court or administrative

¹⁵ Resolving Family Conflicts. A Guide to International Family Mediation, International Social Service p. 6.

¹⁶ Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000 [2003] OJ L 338 art 55(e).

¹⁷ Guide to Good Practice under the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction (2012), p. 42.

authorities about the possibilities for mediation. The earlier parents come for mediation, the better, as it may avoid the forced return of the child.¹⁸

In ICA cases it is recommended by the Hague Guide to Good Practice¹⁹ that the mediation is conducted by bi-lingual Co-mediators who speak the couple's common language as well as their respective mother tongues. This allows the parents to switch into their respective mother tongues if they wish or feel the need to in these very conflicted cases and highly emotional mediations. The mediators should ideally also be familiar with the parents' respective cultures or have the same cultural backgrounds. This helps to understand cultural differences and to build trust. Ideally the Co-mediators should reflect the gender of the parents and they should have a bi-professional background (legal and psycho-social/pedagogic).

Mediators should not suggest solutions or give legal advice (for this, both opposing parties can turn to their respective attorneys). The main purpose of the mediation procedure is to elicit from them their respective interests and needs and in particular those of the child in order to find a solution grounded on the best interests of the children involved²⁰.

Article 12 of the UN Convention on the Rights of the Child envisaging the right of the child to express his/her views in judicial or administrative proceedings should be taken into consideration also in mediation procedures in ICA cases as well as in any other alternative procedure for conflict resolution.

There is one distinction that needs to be taken into account when children are involved in IFM proceedings (child inclusive mediation). The mediator in the process may only draw the parents' attention to the child's point of view or to aspects that may be relevant to the interest and welfare of the child, but it remains entirely up to the parents to decide on the content of the agreement. This differs from judicial proceedings where the judge will draw his/her conclusion from the hearing of the child and depending on the child's age and degree of maturity may take the child's views into consideration, when making his/her decision regarding the child's best interests.²¹

If the mediation procedure is successful, the agreement concluded by both parties is written up in a so-called Memorandum of Understanding. The agreement should meet the requirements to be rendered legally binding and enforceable in the concerned States before commencing with its practical implementation.²²

Such principle, within the European Union, is stated in Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters.²³ Under Article 6 of the Directive, Member States are

¹⁸International Family Mediation, https://www.ifm-mfi.org/en/guide_section_5 accessed 07.19.2021.

¹⁹ Guide to Good Practice under the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction (2012)

²⁰ See Parental responsibility in a cross-border context including child abduction, Thematic Unit 3, Family mediation, available at https://www.era-comm.eu/EU_Civil_Justice_Training_Modules/kiosk/courses/Family_Law_Module_2_EN/Thematic%20Unit%203/kiosk/dokuments/Print_Thematic_unit_3.pdf.

²¹ Draft Guide to Good Practice under the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction, Part V – Mediation.

²² Guide to Good Practice under the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction (2012), p. 82.

²³ Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters [2008] OJ L 136.

under a duty to ensure that the content of a written agreement resulting from mediation is made enforceable.

It is important to highlight that, under Article 2, the Directive applies to civil and commercial matters, “with the exception of rights and obligations which are not at the parties’ disposal under the relevant applicable law”, rights and obligations which are particularly frequent in family law (see recital 10).

Furthermore, under recital 20, an agreement obtained in matters regulated by Regulation 2201/2003 should be recognized and declared enforceable in the other Member States in compliance with the rules of the Regulation. However, as pointed out under recital 21, agreements shall be (already) enforceable in the Member States where they were concluded in order to be enforceable also in another Member State. In this respect, the Directive shall not be considered as an instrument encouraging the parties to circumvent the law of a Member State by having the agreement made enforceable in another Member State.

Regardless of this, the cross-border enforceability of mediated family agreements is complicated and complex. Neither the Brussels IIa nor any other EU legal instruments provides proper guidance on this. Here the national procedural laws of the EU Member States are relevant, but these differ significantly from each other. To provide some guidance and help for this to legal practitioners and families in such cases, the EU co-financed AMICABLE project (www.amicabl-eu.org, 2018-2021) created legal guidebooks, so called “Best Practice Tools”. The purpose of these practical guidebooks is to assist EU judges and lawyers with the cross-border enforceability of mediated agreements in the EU and provide more legal certainty for families in these cases. An EU General Best practice Tool and four country-specific Best Practice Tools (Poland, Spain, Italy and Germany) are available for downloading free of charge in English and in the respective national language from the AMICABLE Website²⁴.

4. National Specificities in the procedure for returning the child and the usage of International Family Mediation.

The iCare questionnaire consists of three sections (see Annex 1) - Administrative proceedings, Judicial proceedings and Mediation covering all steps in the overall procedure for resolving ICA cases including mediation as an alternative dispute resolution method. The questionnaire was jointly conceived by the project Consortium and distributed to the respective national stakeholders via the project Consortium members’ networks. In accordance to the Grant Agreement of the iCare project, a total of 30 stakeholders of the participating countries were required to complete this questionnaire. The Project consortium gathered a total amount of 62 completed questionnaires from all five participating in the project EU Member countries as well as the Netherlands and Poland as additional countries outside the project consortium. Furthermore, the project partners received completed questionnaires from all stakeholder groups that are covered by project – legal practitioners (family lawyers, family judges, prosecutors etc.), Central Authorities and Family mediators with different

²⁴ www.amicable-eu.org . This EC co-funded project was conceived by project co-ordinator MiKK and consists of a project consortium of legal experts from the University of Wroclaw, University of Alicante and University of Milano-Bicocca.

levels of experience. Additional replies were gathered from groups that are outside the envisaged ones in the project such as social workers and psychotherapists.

4.1 Bulgaria

The number of questionnaire responses received from Bulgaria is 4. The respondents of the questionnaire in Bulgaria include professionals such as lawyers, judges, mediators. The majority of experience they have varies from 10 to 20 years, and there is one respondent with experience between 5 and 10 years.

4.1.1. Administrative proceedings

The outcomes of the questionnaires distributed in Bulgaria show that there is no information available on the number of 1980 Hague Convention/Regulation 2201/2003 child abduction cases that were handled in 2019 and 2020. Similarly, there is no knowledge on the numbers of cases that were not processed by the Central Authority but went to the courts directly. Some of the respondents outline that such cases are present but not very common. The number of employees/case officers that work at the Central Authority and handle Child Abduction Cases differs, but it varies between 1 and 10 people. In addition, in Bulgaria there are not lawyers that are specialized in child abduction cases and the Central Authority does not keep a register/list of lawyers that they refer parents to in such cases. In regard to the fact whether the Central Authority regularly informs the parents in a child abduction cases about the option of mediation, the questionnaire's answers show that there is clear inconsistency in this practice. In some of the cases only the applicants are informed of this option, while in others both parties are informed. In some instances, the communication is done by letter, while in others it is done by telephone and it consists only of general information regarding the mediation option.

4.1.2. Judicial proceedings

Legal Aid

Legal aid in Bulgaria for legal representation for parents in child abduction cases is available for both parties. However, it is determined through means-tests, more specifically, it is available solely for parents with low income. In general, there are no lawyers that are strictly specialized in child abduction cases, however, there are such specialized in family law. In addition, there are some training institutions or organizations in Bulgaria that provide specialized training for family lawyers.

Court proceedings

The outcomes of the questionnaires show that in general the Bulgarian jurisdiction does not comply with the 6-week period provided by the Hague Convention/Regulation 2201/2003 (Art. 11 of the Hague Convention/Art. 11, para 3 of the Regulation). They also show that there is inconsistency in the implementation of measures for prevention of relocation of the child while pending a return application. However, when deciding if the return application should be approved, the court requires an expert assessment from a psychologist or the social services, usually a very formal social report. In Bulgaria there are no specialized courts that handle only international child abduction cases. However, there are judges that specialize in handling international child abduction cases. In addition, the National Institute of Justice provides specialised training for handling ICA

cases for judges. Video conferencing suites do not exist in the courts that hear ICA cases not allowing parties to appear remotely. The questionnaire respondents do not give a clear answer to the question whether most judges and lawyers in Bulgaria know the identity of the Bulgarian International Hague Liaison Judges and European Network Judges and what their role is.

Sometimes in international child abduction proceedings children are heard. This is done in a child-friendly environment, in the so-called blue rooms that are equipped for children. The hearing takes place at the presence of a social worker and in the absence of the parties and their proxies. If the child is not heard by the judge directly, the information from the child interview is presented by a written report to both the judge and the parents. An alternative is for the judge to monitor the hearing of the child through the glass installed in the blue room. Usually the court does not appoint a Guardian ad Litem or any other person with a similar kind of function for the child. The child is informed about the consequences of the international child abduction procedure by the judge or by the social services. In child abduction cases in Bulgaria where a return decision is taken by the court, the bailiff is responsible for carrying out the enforcement. It is arguable whether the enforcement authority is permitted by law to use (reasonable) force when enforcing the return of the child. In a child abduction case requiring enforcement of the return order, it is unclear whether the return order will usually suffice, or the applicant parent will be required to return to court to seek further order for enforcement. The procedure is conducted by the competent bailiff responsible for the district, where the child resides upon request by the applicant parent. This is done by an invitation for voluntary handover of the child. In case of non-compliance, a fine is imposed as well as the bailiff may request the police to facilitate the enforcement decision in the presence of social workers.

4.1.3. Mediation

The majority of judges in Bulgaria refer parents to mediation in international child abduction cases. However, the court usually does not maintain a specialized list with child abduction family mediators or organisations for such referrals, but there might be exceptions. There is no information regarding specialized, bilingual cross-border mediators in Bulgaria who also undertake mediations in child abduction cases. However, most of the respondents think that there is a need for such specialization. Mediation is possible during the whole procedure of international child abduction cases. There might be an information exchange between the mediators during the mediation procedure and the Central Authorities and the Court on how the mediation procedure is going (if it has stopped, was terminated etc.). There are some specialized trainings for mediators on the aspects of international family mediation, however, not very often. It is not clear among the practitioners whether mediation aid is available for parents in child abduction cases wishing to mediate, which leads to the presumption that this will be even more unclear for the parents in such situations. In Bulgaria it is not a common practice for the mediators to meet children in mediations in ICA cases. The respondents of the questionnaire share the opinion that there is still a pressing need to increase the expertise of judges, lawyers and mediators on the topic in the country and that there must be specialized courts that deal only with children, including in cases of international child abduction.

In addition, the issues and problems that they have identified during their work on cases of international child abduction and when implementing international family mediation are: a lot of possibilities to prolong the pending case; the judges tend to reject the return due to the integration of the child and the rejection of the abducting parent to return with the child; no special procedural rules helping the judges to concentrate on the return and exclude the referral to the parental responsibility issues; limited knowledge of the access to the so-called “second chance decision” under Art. 11, par. 8 Regulation 2201/2003; the resilience of the parties to refer the case to mediation which often results in deepening the animosity between the parties, lack of effectiveness and success. Therefore, the respondents outlined that there is a clear need for increasing the information on mediation in the country in order to ensure accessibility to the process.

4.2 Italy

The number of questionnaire responses received is 32. The participants in the questionnaire from Italy are a variety of professionals whose expertise is closely linked to the topic of ICA such as family judges, family lawyers, prosecutors, mediators. Other types of professionals have also taken part, including social workers, juvenile judges, psychotherapists, academics, researchers, a mother of a minor with double citizenship, and the Italian Central Authority appointed under Regulation 2201/2003 and the 1980 Hague Convention. Almost half of the professionals that have responded have over 20 years of experience. The other respondents’ experience varies between 0 and 20 years.

4.2.1. Administrative proceedings

In Italy, the number of incoming child abduction cases in 2019 was 109, 128 in 2020. The outgoing cases in 2019 were 81, 60 in 2020. The numbers of incoming access application cases are 21, and the outgoing are 15. These numbers do not include cases that were not processed by the Central Authority but went directly to the courts. The respondents were not aware of any international child abduction case that was processed without the involvement of the Central Authority. In addition, between 1 and 5 employees/case officers work at the Italian Central Authority that handle ICA cases. The Central Authority does not refer parents to lawyers and does not keep a register/list of lawyers that they can refer parents to. Likewise, the Central Authority does not inform the parents in an international child abduction case about the option of mediation.

4.2.2. Judicial proceedings

Legal aid

In Italy legal aid is available for legal representation for parents in international child abduction cases for both sides. However, it is means-tested, i.e. available only for parents on low income. Based on the answers of the questionnaire, there are specialised lawyers on the topic, but they cannot be easily identified by private citizens. The respondents of the questionnaire have pointed out ICALI (International Child Abduction Lawyers Italy) and Studio Cataldi, Consulenza Legale Italia as organizations that list specialized lawyers for international parental child abduction cases. In addition, they have also outlined the Association Cammino (“Camera Nazionale Avvocati per la Persona, le Relazioni Familiari e i Minorenni”), bar associations, logos, PERFORM, Università degli Studi di Genova as

training institutions that provide specialized training for family lawyers and mediators in the field of international parental child abduction cases. However, most of the respondents answered that they have not participated in any training activities in the last two years as no such was offered to them. Some of them have participated in public events focused on this topic, however, the training offers that they have come across were with high costs of participation. The areas that they have identified as problematic and where training is required include: mediation in the context of international child abduction cases and other cross-border family matters; child-centered mediation that is sensitive to the rights and needs of the child; co-mediation to offer bi-lingual, bi-national and bi-cultural mediation with a gender balance in cross-border family matters; interagency and multi-disciplinary training on intercountry child abduction cases; the Brussels IIa recast Regulation (Regulation EU 2019/1111 of 25 June 2019) and the 1980 Hague Convention; using direct judicial communications in ICA cases; using mirror orders to reinforce mediated decisions in both countries of an international child abduction case.

Court proceedings

The majority of answers show that the Italian jurisdiction does not comply with the 6-week period provided by the Hague Convention/Regulation 2201/2003 (Art. 11 of the Hague Convention/Art. 11, para 3 of the Regulation). However, most of the respondents confirm that there are measures in place to prevent relocation of the child pending a return application. In this direction, the court requires an expert assessment from a psychologist or the social services when deciding if the return application should be approved. In Italy there are specialized courts that handle only international child abduction cases (i.e. juvenile courts). There is not a specialization of judges in courts that are handling ICA cases. It is unclear whether the judges undergo a special training for handling ICA cases. Only some courts have video conferencing facilities that hear ICA cases allowing parties to appear remotely. Some of the judges and lawyers in Italy know the identity of the International Hague Liaison Judges and what their role is. The respondents outlined the European Judicial Network (EJN) is useful for exchanging information and for joint training. In addition, the weakness of the EJN and the network of liaison magistrates for the Hague Conventions of 1980 is that they are little known. They believe that it is necessary to raise awareness of their existence²⁵. Their strengths lie in the specialised service they offer and their cross-border approach to cases. Sometimes children are heard in international child abduction proceedings. Some of the factors that determine whether the child is heard in the proceedings are as of a certain age regulated in the national law, if the child is considered to have the “capacity of discernment”, if the hearing of the child is considered to be in his/her best interests, the judge’s discretion. In addition, the child is heard by either the judge, social services, child specialist/psychologist or a guardian *ad litem*, i.e. specially trained professionals. If the child is not heard by the judge directly, the information from the child interview is presented through a written report to the judge included in the file and available for consultation by all parties. The court appoints a guardian if the minor has no parents or if the parents have been deceased/suspended from parental responsibility, and a curator is appointed if there is a conflict of interest between the parent/guardian and the minor.

²⁵ Aldricus, the EJNita project portal (www.aldricus.giustizia.it) devoted to judicial cooperation in civil and commercial matters, accessed 19.07.2021.

The child is informed about the ICA procedure by the judge, social services, child specialist/psychologist or guardian *ad litem*. They are informed at the beginning of the proceedings, prior to the hearing as well as at the end of the proceedings when the judgement is issued. Information is given to them regarding the purpose of the proceedings and possible outcomes, their rights in the proceedings, their role during the proceedings, their hearing and how their views will be taken into account. It does not become clear from the answers provided in the questionnaire what authority is responsible for carrying out the enforcement in child abduction cases where a return decision by the court has to be enforced. Some of the respondents have pointed out the specialised social services, belonging to the Department of Juvenile Justice as responsible for this process, others have pointed out the police authorities, the judges, the bailiff, the Central Authority, the Public Prosecutor's Office, or the Juvenile Court Prosecutor's Office. The enforcement authority is permitted by law to use (reasonable) force when enforcing the return of the child. In a child abduction case requiring enforcement of the return order, the return order usually suffices in theory, but in practice, coordination with the competent authorities of the child's "state of refuge" is necessary.

Some of the questionnaire respondents present the enforcement procedure by describing the following events: The Prosecutor's Office of the Juvenile Justice Department collaborates with the Ministerial Social Services in the execution of the offence. Sometimes the court may authorize the use of public force only against adults. Execution may take time, for interviews, to exercise persuasion, to provide psychological support to adults and minors, to agree on the methods of execution, which may be expressly indicated in the court order (places, methods and times). After the issuance of the return decree, it is up to the Prosecutor's Office to activate the enforcement procedure *ex officio*, by contacting the social services of the Juvenile Justice Department. This service contacts the parties and asks whether there is spontaneous execution. If not, it summons the parties and orders them to come with the child and his/her documents. As a rule, the police are present to supervise in the event of offences (escapes, assaults or the search for the abducting parent).

If a child is returned from Italy, the decision whether the child will be returned to the left-behind parent or to the jurisdiction is determined on a case-by-case basis in accordance with a previous case assessment. It is a common outcome to be returned to the left-behind parent.

4.2.3. Mediation

Some judges in Italy refer parents to mediation in ICA cases. In this context, mediation is available *ex ante*, i.e. before court proceedings are initiated. The court usually does not maintain a specialized list with child abduction family mediators or organisations for such referrals. The outcomes of the questionnaire show that there is no sufficient information regarding specialized, bi-lingual cross-border mediators who also undertake mediations in child abduction cases. However, the majority of respondents think that there is a need for such specialization. Mediation is possible at any stage of the procedure of international child abduction cases and the parties could also switch to a mediation procedure at any time. The length of a mediation procedure in ICA cases involving Italy as State of origin or as State of refuge differs. It could be less than six weeks, or it could be even more than one year, on condition that there would be no

more abduction. There are no consistent data whether there is information exchange between the mediators during the mediation procedure and the Central Authorities and the Court on how the mediation procedure is going (if it has stopped, terminated etc.). There is not enough information regarding specialized trainings for mediators on the aspects of international family mediation and its implementation in cases of international child abduction. In addition, it is not clear whether mediation aid is available for parents in child abduction cases wishing to mediate. Some of the respondents confirm that psycho-social support is available for both parents or for the applicant and the child, however, a big part of the rest does not have information on the matter.

A competent authority (such as social services, child protection services) gets involved in cases of ICA to have special regard to the rights and needs of the child upon a referral by the court. Mediators sometimes hear the child during the course of the mediation in ICA cases. In some cases, it is left to the mediators' discretion whether to hear the child and in case when they do, the information is usually presented to the parents in a written report by the mediator. The child is informed about the mediation at the beginning of the mediation process or prior to the hearing by the mediator. They usually receive information regarding the purpose of the mediation and possible outcomes as well as the hearing of the child and how the child's views will be taken into account by the mediator. Mediator is a recognized profession in Italy, however, some of the mediators have other professional backgrounds such as psychologists, social workers, lawyers. In this respect, the respondents do not have enough information whether mediators operating in ICA cases require an official license or accreditation.

According to the participants, mediation in cases of abduction can play a crucial role. However, neither the 1980 Hague Convention nor Regulation 2201/2003 give it sufficient prominence. The initiative is therefore left to practitioners (judges in the first place and then individual professionals). In this respect, it would be necessary to increase public awareness of the possibility of resorting to mediation and also of the tools that can actually be used. It is also very important to enhance the awareness-raising on the best interests of the child, who has no legal assistance of its own. They also suggest a rapid acquisition of information from the country of origin (socio-family survey, interventions carried out, court orders) as well as information on the existence of mediators to be provided. Another vital factor are the types of possible interventions and the direct communication channel between the Central Authority and mediators.

The answers also show that in some countries (Italy, among others), criminal proceedings can be initiated following child abduction which is a difficult obstacle to overcome in order to initiate mediation. They also outline that the cross-border nature of abduction cases is not sufficiently taken into account. The tight timeframe within which abduction proceedings must be concluded does not facilitate the use of mediation. The cultural diversity of those involved in the case, including lawyers, could also be an obstacle as well as the geographical distance between the parents involved and any language barriers. There is a general lack of knowledge on mediation, both on the part of legal practitioners and citizens (and, consequently, the lack of training in this regard). Some of the respondents share the opinion that mediation should remain a consensual and non-mandatory instrument, however, the judge should make the parties aware of the need to undertake it.

Other outlined problems in the questionnaire are the possibility of bitter conflict between litigants, the costs of mediation, and the shortage of mediators experienced in international family law disputes. There is also lack of specific professional training on the topic. In the answers, a view was also provided that once the abduction has been carried out, the personal relationship has deteriorated too much to ensure that the meetings will always be successful, however, not in all cases. In addition, in many cases the abducting parent claims to be a victim of violence by the other parent. In these cases, Article 48 of the Istanbul Convention²⁶, which prohibits mediation in cases of domestic or gender-based violence, prevents the use of mediation.

The participants in the questionnaire agree that the most evident good practice is the care for the child, the awareness that these are very delicate situations. However, there is a lack of real common guidelines that take into account the specificities of the proceedings and the particular situation of the child. In addition, the child should not be heard in conflictual environments (courtrooms, etc.). There should be some time between the moment the child meets the last parent and the time he/she is heard. The physical presence of one of the parents during the hearing should be avoided. It is essential to implement cooperation and trust between judges and services of the countries. In Italy, abduction is considered a "restitutio rei" and therefore hearing the minor and his/her interests are of secondary importance. In addition, the respondents outline that mediation should be encouraged as that with an invitation from the judge mediation has a greater chance to succeed. There is no direct access to mediation. It is delegated to the ministerial social services both in the preliminary and in the executive phase. There is also no direct contact between the prosecutor and the mediator, who is not officially and individually present in the case.

4.3 Greece

The number of questionnaire responses received from Greece is 4. All of the respondents of the questionnaire from Greece are judges. Most of their experience is up to 5 years each, however, one of them has over 10 years.

4.3.1. Administrative proceedings

There is no information provided for the number of 1980 Hague Convention/Regulation 2201/2003 child abduction cases that were handled by Greece in 2019 and 2020. Similarly, there is no information concerning the number of child abduction cases that were not processed by the Central Authority but went to the courts directly. An average of 10 employees/case officers work at the Central Authority that handle child abduction cases, with more on occasion. In addition, there is little information whether the Central Authority in Greece refers parents to lawyers. Even in the cases when they do, they do not refer them to lawyers specialized in child abduction cases. The Central Authority does not inform the parents in a child abduction case about the option of mediation. The reason for this is because there are no qualified mediators for child abduction cases in Greece.

²⁶ Council of Europe, Convention on Preventing and Combating Violence against Women and Domestic Violence (entered into force 1 August 2014).

4.3.2. Judicial proceedings

Legal Aid

Legal Aid is available for legal representation for parents in child abduction cases for both sides. However, the legal aid means-tested (i.e. available only for parents on low income). There was no information provided regarding the fact whether there are specialized lawyers in Greece for parental child abduction cases.

Court Proceedings

The Greece jurisdiction complies with the 6-week period provided by the Hague Convention/Regulation 2201/2003 (Art. 11 of the Hague Convention/Art. 11, para 3 of the Regulation). There are measures in place to prevent relocation of the child pending a return application. However, the answers show that there is not a consistent approach if the court requires an expert assessment from a psychologist or the social services for deciding if the return application should be approved.

There are not specialized courts in Greece that handle only international child abduction cases. The judges do not undergo special training for handling ICA cases and there are no judges that specialize in handle solely such cases. Video conferencing suites do not exist in the courts that hear ICA cases allowing parties to appear remotely. According to the respondents, some of the judges and lawyers know the identity of the International Hague Liaison Judges and European Network Judges and what their role is.

Children are sometimes heard in ICA proceedings. In the cases when they are heard, it is usually done by the judge. However, it is not clear whether the children are heard in a child-friendly environment. If the child is not heard by the judge directly, the information from the child interview is provided only to the judge in a written or oral report. The court may appoint a Guardian ad Litem for the child or someone else with similar kind of function. Information was not provided on whether the child is being informed about the consequences of the ICA procedure. Whenever a return decision by the court has to be enforced it is not clear what authority is responsible for carrying out the enforcement. Some of the respondents have pointed out the police authorities as the responsible authority, while others have pointed out the judges as such. In cases requiring enforcement of the return order, only the return order itself usually suffices. If the respondent parent does not comply with the return decision, the court imposes ex officio on him/her a fine up to 100.000 euros in favor of the applicant and imprisonment up to one year.

4.3.3. Mediation

The judges in Greece usually do not refer parents to mediation in international child abduction cases. The court does not maintain a specialized list with child abduction family mediators or organisations for such referrals. There are not specialized, bi-lingual cross-border mediators who also undertake mediations in such cases. However, the respondents agree that there is a need for such specialization. In most of the cases, mediation is possible during the whole procedure. There is not a consistent approach in the exchange of information between the mediators during the mediation procedure and the Central Authorities and the Court on how the mediation procedure is going (if it has stopped, terminated etc.). There is not enough information

on specialized trainings for mediators on the aspects of international family mediation and its implementation. Similarly, there is not enough information on the legal aid/mediation aid available for parents in child abduction cases wishing to mediate. The mediators in Greece usually do not meet children in mediations in ICA cases. Some of the respondents think that mediation should be mandatory for both parties before court procedure. In addition, some of them also support the thesis that judges in EU should have further training on the implementation of 1980 Hague Convention-Regulation 2201/2003 child abduction cases in order to be aware of the national procedure in each Member State. Furthermore, they add that Member States should adopt common guidelines on the mediation procedure, so as to have cooperation among them improve, when both sides (applicant - respondent parent) choose mediation but reside in different countries.

4.4 Germany

The number of questionnaire responses received from Germany is 14. The majority of the respondents from Germany are family lawyers, family mediators and family judges. Some of them are both lawyers and mediators. The majority of respondents have over 20 years of experience and the rest of them have over 10 years. In addition, the German Central Authority, as well as the Hague Liaison Judges also participated in the questionnaire.

4.4.1. Administrative proceedings

The majority of the respondents do not have information regarding the number of 1980 Hague Convention/Regulation 2201/2003 child abduction cases that were handled by Germany in 2019 and 2020 and the number of cases that were not processed by the Central Authority but went to the courts directly. Some of the respondents outlined that such information is not available to judges. The German Central Authority however provided the following numbers: incoming cases for 2019 – 241, outgoing cases for 2019 – 218, incoming cases for 2020 – 217, outgoing cases for 2020 – 209. The number of access applications: incoming cases for 2019 – 36, outgoing cases for 2019 – 41, incoming cases for 2020 – 35, outgoing cases for 2020 – 31. It was confirmed that these numbers do not include cases that were not processed by the Central Authority but went to the courts directly. There are more than 10 employees/case officers working at the Central Authority of Germany that handle child abduction cases. Another respondent identified the number of 1980/Hague Convention/Regulation 2201/2003 child abduction cases which were handled by the Central Authorities in Germany in 2019 and 2020 to be the following numbers: incoming cases – 2, outgoing cases – 2. The number of access applications: incoming cases – 2.

The Central Authority refers parents to lawyers who are specialized in child abduction cases but the Central Authority does not keep a register/list of lawyers that they refer parents to. However, the Central Authority regularly informs both the parents in a child abduction case about the option of mediation. They do so by letter, telephone or indirectly through the lawyer. In addition, the Central Authority provides a leaflet containing information about the meaning of mediation, the proceedings (with a particular reference on bi-cultural mediation), where the mediation should take place

and the arising expenses. It also includes the contact details of the CA and the responsible mediation institution/professional associations.

4.4.2. Judicial proceedings

Legal Aid

Legal Aid is available for legal representation for both parents in child abduction cases in Germany. However, it is means-tested (i.e. available only for parents on low income). The Chamber of lawyers has an option which allows a lawyer to be searched by different criteria as language skills or experience in family law. There are some training institutions or organizations that provide specialized training for family lawyers in the field of parental child abduction cases such as MiKK, Deutsches Anwalt Institut, the Chamber of lawyers, ERA, some bar associations, lawyers associations, state bars, NGOs.

Court Proceedings

The German jurisdiction complies with the 6-week period provided by the Hague Convention/Regulation 2201/2003 (Art. 11 of the Hague Convention/Art. 11, para 3 of the Regulation). Usually, there are measures in place to prevent relocation of the child pending a return application. The answers show different replies concerning the court requirements for an expert assessment from a psychologist or the social services when deciding if the return application should be approved.

There are 22 specialized courts in Germany that handle only ICA cases. The judges undergo special training for handling ICA cases. Organisations that provide such training are the German Central Authority, Dt. Richter akademie and MiKK. Only some courts have video conferencing facilities that hear international child abduction cases allowing parties to appear remotely. Some of the participants who completed the questionnaire stated to know the identity of the International Hague Liaison Judges and European Network Judges and what their role is.

It is very common for children to be heard in international child abduction proceedings. It may be done by the judge, the social services, child specialist/psychologist or Guardian ad Litem. Children are heard in a child-friendly environment as most family courts have special facilities for such purposes. Sometimes even toys are used during hearing, depending on the child's age. If the child is not heard by the judge directly, the information from the child interview is conveyed through a written report to both the Judge and the parents. The court appoints a Guardian ad Litem for the child or someone else with similar kind of function, depending on the age of the child. The child is sometimes informed about the consequences of the ICA procedure by the judge, social services or Guardian ad Litem. In child abduction cases where a return decision by the court has to be enforced different authorities may be responsible for carrying out the enforcement such as the judge, the bailiff, the police authorities, the social services. It is not clear whether the enforcement authority is permitted by law to use (reasonable) force when enforcing the return of the child. In a child abduction case requiring enforcement of the return order, the return order usually suffices. The judge who orders the return of the child is responsible for the enforceability. By his authority a bailiff is ordered who may call the police for support. In describing the procedure for the enforcement of return decisions, one respondent clarifies that recognition, together

with declaration of enforceability, are carried out in line with Regulation 2201/2003, the 1980 Luxembourg Convention and 1980 Hague Convention.

4.4.3. Mediation

Some judges in Germany refer parents to mediation in international child abduction cases. Similarly, some courts maintain a specialized list with child abduction family mediators or organizations such as MiKK for such referrals. There are specialized, bi-lingual cross-border mediators who also undertake mediations in cases of ICA. There are specialized trainings for mediators on the aspects of international family mediation and its implementation in cases of ICA. MiKK provides such trainings and listing of specialized mediators. Most of the respondents of the questionnaire agree that there is a need for such specialization.

Mediation is possible during the whole procedure of ICA. Although generally there is no communication between the courts and the mediators in Germany²⁷, this was not clear from the answers provided in the questionnaires concerning the question as to whether there is an information exchange between the mediators during the mediation procedure and the Central Authorities and the Court on how the mediation procedure is going (if it has stopped, terminated etc.). There are specialized trainings for mediators on the aspects of international family mediation and its implementation in cases of ICA. However, it is not clear whether legal aid/mediation aid is available for parents in child abduction cases wishing to mediate. Sometimes mediators in Germany see children in mediations in ICA cases.

Some respondents outline that a recommendation by the judge to the parents to try mediation is of great benefit for the parents. The Central Authority sometimes finances the mediation cost of a parent when legal aid has been granted by the court. They also agree that specialised jurisdiction is crucial, normally only one more instance. In addition, it is important the enforcement to be executed by the same court that has rendered the decision. It was suggested in the answers that prevention can be enhanced by making the information readily available to all parties. Furthermore, there should be clear and specific training or affiliation with a reliable Institute for persons providing mediation. The respondents outline that in some instances the process can take too long, and the six-week period could be neglected. They agree that the sharing of experience and knowledge cross-border and within state is very important. Specialization of mediators and coordination between courts, CA and specialized body (e.g. NGO) is essential due to the urgency of judicial cases and logistical hurdles (selection of mediators, rooms, dates, etc.).

The participants support that all parents should be encouraged to try mediation, because even if there is no final agreement – mediation is sometimes the first step to start a communication between the parents. In addition, what has been initiated within mediation may be continued by the judge within the court hearing. Furthermore, if a lawyer has not enough knowledge in this special field of family law, the proceedings become more difficult. Enforcement is always very difficult. Therefore, it is crucial that

²⁷ Explanatory Note: In its role as a Pre-mediation service in Child Abduction Cases, MiKK organizes the mediations for parents also on the request of the courts and Central Authority. MiKK – rather than the mediators - will update the Central Authority or the parties' lawyers on the progress of the mediation, since there should be no communication between the mediators and the court.

both parties are committed to the process. Some participants stated that it is key that both parties pay some fee that cements the commitment. Naturally, there are couples that are committed to the process regardless of fees involved, however, in their experience, when there is an unbalance than the success rate is around 50%. Nevertheless, many parents cannot afford to pay such fees and mediation aid is not usually available for free. Repeated information on mediation and support by courts is essential for convincing parties about the benefits of mediation. Financial support is beneficial. Specialization and high level of information to/by courts and mediators as well as establishment and maintenance of effective and prompt coordination between courts, CAs and NGOs/other institutions is vital. This is due to the fact that the existence of these requirements will help achieve mediation without delaying court proceedings and eventually bring about the resolution of the case. In describing any issues and problems that are identified during work on ICA cases and when implementing international family mediation cases, one respondent has emphasized on the lack of sufficient amount of time.

4.5 Belgium

The number of questionnaire responses received from Belgium is 5. The respondents of the questionnaire from Belgium have different professional backgrounds such as family lawyers, mediators, prosecutors and even the Belgium Central Authority has taken part in its completion. Their experience varies mainly between 10 and 20 years, however, some of them have over 20 years.

4.5.1. Administrative proceedings

The Belgium Central Authority have provided the following numbers regarding 1980 Hague/Regulation 2201/2003 child abduction cases that were handled by Belgium in 2019 and 2020: incoming cases for 2019 – 39, outgoing cases for 2019 – 97, incoming cases for 2020 – 27, outgoing cases for 2020 – 89. The number of access applications: incoming cases for 2019 – 11, outgoing cases for 2019 – 16, incoming cases for 2020 – 4, outgoing cases for 2020 – 13. It was confirmed that these numbers do not include the cases that were not processed by the Central Authority but went to the courts directly. There was no clear information regarding the number of employees/case officers that work at the Central Authority of Belgium that handle Child Abduction Cases.

The Central Authority may refer parents to lawyers. The answers do not give clear response to the question whether there are specialized lawyers for child abduction cases. The Central Authority regularly informs both parents in a child abduction case about the option of mediation, usually by letter.

4.5.2. Judicial proceedings

Legal Aid

Legal Aid is available for legal representation for both parents in child abduction cases in Belgium. However, it is means-tested (i.e. available only for parents on low income). There are specialized lawyers for parental child abduction cases. In addition, institutions that list such lawyers are PFEIFF and Child Focus. Furthermore, there are organisations that provide trainings for such specialization, such as IGO and IFJ.

Court Proceedings

It is not clear from the questionnaire answers whether the Belgium jurisdiction complies with the 6-week period provided by the Hague Convention/Regulation 2201/2003 (Art. 11 of the Hague Convention/Art. 11, para 3 of the Regulation). There are measures in place to prevent relocation of the child pending a return application. The provided answers do not give clear information on whether the court requires an expert assessment from a psychologist or the social services when deciding if the return application should be approved. Similarly, it is not clear whether there are specialized courts that handle only ICA cases. In addition, some of the answers show that judges undergo special training for handling such cases and some of the respondents pointed out that there are judges that specialize in handling ICA cases. Organisations that provide such training are IGO and IFJ. The questionnaire outcomes do not give clear answer to whether video conferencing exists in Belgium that could be used for hearing ICA cases allowing parties to appear remotely. Some judges and lawyers know the identity of the International Hague Liaison Judges and European Network Judges and what their role is. Sometimes children are heard in ICA proceedings. In such instances, they are heard by the judge. It is supposed that children are heard in a child-friendly environment as there are special rooms for such purposes. If the child is not heard by the judge directly, the information from the child interview is presented by a written report both to the judge and the parents. The answers show inconsistency in the courts decision whether to appoint a Guardian ad Litem for the child or someone else with similar kind of function; however, it seems from the results that it is not a common practice. The age of the child might be a deciding factor. It is not clear whether the child is informed about the consequences of the ICA procedure. However, when they are informed, this is usually done by the judge.

In child abduction cases where there is a return decision by the court, it can be enforced by different authorities such as bailiff, police authority, or by social police, which can impose a penalty. The results from the questionnaire do not give clear response to the question whether the enforcement authority is permitted by law to use (reasonable) force when enforcing the decision by the judge. In a child abduction case, which is requiring enforcement of the return order, the return order usually suffices in order for the decision of the judge to be enforced and the child relocated.

According to the respondents' answers, the parent is heard about voluntarily executing the return decision. If no cooperation is provided, specific arrangements are made with the judicial authorities, taking into account the circumstances of the case and the child's wellbeing. A penalty can be imposed in the judgement for the responsible parent when he/she refused social police, and bailiff. In some cases when the child is in danger, the juvenile judge can place the child in a youth institution or in a foster family.

4.5.3. Mediation

Some judges in Belgium refer parents to mediation in international child abduction cases but it is not clear from the received answers whether the court maintains a specialized list with child abduction family mediators or organisations for such referrals. There are specialized, bi-lingual cross-border mediators who also undertake mediations in child abduction cases. Mediation is possible during the whole procedure of ICA. There might

be an information exchange between the mediators during the mediation procedure and the Central Authorities and the Court on how the mediation procedure is going (if it has stopped, terminated etc.). Special trainings for mediators on the aspects of international family mediation and its implementation in cases of ICA are conducted. It is not clear from the provided answers whether legal aid/mediation aid is available for parents in child abduction cases wishing to mediate. The mediators usually do not hear the child in a mediation procedure, but there might be exceptions depending on the cases.

The respondents have outlined that the Belgian Authority gives the cases in the hands of the prosecutor. For the prosecutor, in many cases, it is very difficult to represent the parent in the foreign country because: she/he might not tell the whole truth or give all information; there might be a story of violence in the family or a divorce in the past; the applicant parent has psychological problems, and a plethora of other reasons. The relation between the prosecutor and applicant parent is not confidential. All these factors lead to the conclusion that it is better that the Central Authority handles the cases to a Belgian lawyer and not to the prosecutor.

In addition, the cost of mediation is often a practical challenge. Furthermore, the majority of cases concern mothers with very young children that return to the country of her family for support and safety, because of a story of violence in the family of her husband/partner. An attempt for mediation could be done, but in many cases, there are a lot of family troubles in the past, so a good solution is very difficult. In most cases, the child is very young (0 – 6 years old), and has a great attachment with the mother, which makes the returning to the other parent complicated.

4.6 Additional countries: the Netherlands

The two respondents of the questionnaire from the Netherlands are a mediator and a family lawyer who is also a mediator. One of them is with over 10 years of experience and the other one with over 20 years.

4.6.1. Administrative proceedings

The respondents provided information regarding the number of 1980 Hague Convention/Regulation 2201/2003 child abduction cases that were handled by the Netherlands in 2019: incoming cases 51, outgoing cases 56, access applications for incoming cases 9, access applications for outgoing cases 7. However, no information was available regarding these numbers for 2020. These numbers do not include cases that were not processed by the Central Authority but went to the courts directly. Between 5 and 10 employees/case officers work at the Central Authority that handle Child Abduction Cases. The Central Authority refers parents to lawyers who are specialized in child abduction cases via IKO center which keeps a list of such referees. It also regularly informs both parents in a child abduction case about the option of mediation, usually by letter that contains information and a reference to the Mediation Bureau.

4.6.2. Judicial proceedings

Legal Aid

Legal Aid is available for legal representation for both parents in child abduction cases in the Netherlands. However, it is means-tested (i.e. available only for parents on low income). There are specialized lawyers for parental child abduction cases and institutions that list these specialized lawyers such as Center IKO and DIAL the association of child abduction lawyers. In addition, there are training institutions that provide specialized training for family lawyers in the field of parental child abduction cases such as Center IKO and SSR.

Court Proceedings

The Dutch jurisdiction complies with the 6-week period provided by the Hague Convention/Regulation 2201/2003 (Art. 11 of the Hague Convention/Art. 11, para 3 of the Regulation). There are measures in place to prevent relocation of the child pending a return application. It is not clear from the answers whether the court requires an expert assessment from a psychologist or the social services when deciding if the return application should be approved. There is one specialized court that handles only ICA cases. The respondents did not have information whether judges undergo special training for handling ICA cases. According to the participants, all courts in the Netherlands have video conferencing suite for ICA cases allowing parties to appear remotely. Some judges and lawyers know the identity of the International Hague Liaison Judges and European Network Judges and what their role is. In addition, some of the judges who do child abduction cases are themselves part of the Liaison judges and are in the European Network Judges.

It is common for children to be heard in ICA proceedings. This is usually done by the judge or by the Guardian ad Litem (approximately from the age of 3 years). In addition, a child-friendly environment is used, the special curator works in his/her own child-friendly place and judges have a special room to hear children in. As an alternative, if the hearing is not done by the judge, the information from the hearing is presented by a written report to both the judge and the parents. It is a common practice for the court to appoint a Guardian ad Litem for the child or some with similar kind of function. The child is informed about the consequences of the international child abduction procedure by the judge or by the Guardian ad Litem. In child abduction cases where a return decision by the court has to be enforced, different authorities may be responsible for carrying out the enforcement, such as a public prosecutor, police authorities or social services. The enforcement authority is permitted by law to use (reasonable) force when enforcing the return of the child. In a child abduction case requiring enforcement of the return order, the return order usually suffices.

According to the answers, provided in the questionnaire, when a parent does not cooperate on returning the child to the habitual residence after the judge ordered to do so, the lawyer of the left behind parent can contact a public prosecutor. The Public Prosecutor is responsible for the enforcement of the return order. There is a possibility for the abducting parent to ask for a suspension of the execution, but this will only be granted on very limited grounds. The public prosecutor shall contact the child protection service as well as the police. They will try to come up with a solution in a way that is the least stressful for the child. In this regard, it is a common practice to allow the child to say their goodbyes to the abducting parent. Therefore, they will first try to find a solution

with the abducting parent, so he/she cooperates in the process. However, if it's necessary to pick up the child, they will use a method that will impact the child the least (no uniform, no police car, no warning lights). Despite all efforts, mentioned above, sometimes it turns out that police force is the only option, however, this is something that it is attempted to be avoided.

4.6.3. Mediation

The judges in the Netherlands always refer parents to mediation in international child abduction cases. The court maintains a specialized list with child abduction family mediators or organisations for such referrals. They refer to the Mediation Bureau, an independent part of the Center IKO. This Mediation Bureau organizes the Mediation in advance. There are specialized, bi-lingual cross-border mediators who also undertake mediations in child abduction cases. They are trained in a special training, developed to train cross-border mediators in abduction cases. Some of them followed also the international training in the TIM project or a training by MiKK. Mediation is possible during the whole procedure of international child abduction. There is an information exchange between the mediators during the mediation procedure and the Central Authorities and the Court on how the mediation procedure is going (if it has stopped, terminated etc.). Usually, the Mediation Bureau's informs the court on the outcome. There are specialized trainings for mediators on the aspects of international family mediation and its implementation in cases of international child abduction. Legal aid/mediation aid is available for both parents in child abduction cases wishing to mediate.

Mediators in the Netherlands do not meet children in mediations in international child abduction cases. This is done by a third mediator specialized in hearing children who conducts a conversation and writes a report that is used in the mediation.

According to the respondents, in the Netherlands there is an established system to make a child abduction procedure as short as possible. However, for it to be effective a good cooperation between the Central Authority, the court, the high court, and the Mediation Bureau is needed. In general, the aim is to handle an abduction procedure in 3 to 4 months, including the process at the Central Authority, the court, high court and mediation. The shorter the procedure, the less impact it has on the people involved, especially the child.

4.7 Additional countries: Poland

The respondent of the questionnaire from Poland is a family lawyer who is also a mediator. He indicates between 10-20 years of experience and the other one with over 20 years.

4.7.1 Administrative proceedings

There is no information regarding 1980 Hague/Regulation 2201/2003 child abduction cases that were handled in Poland in 2019 and 2020 and neither on whether they were processed by the Central Authority or went to the courts directly. The Central Authority doesn't refer parents to lawyers. The Central Authority regularly informs both parents in a child abduction case about the option of mediation by letter.

4.7.2 Judicial proceedings

Legal Aid

Legal Aid is available for legal representation for both parents in child abduction cases in Poland which is not means-tested (i.e. available only for parents on low income). There are no specialized lawyers for parental child abduction cases and there are no training institutions that provide specialized training for family lawyers in the field of such cases.

Court Proceedings

The Polish jurisdiction complies with the 6-week period provided by the Hague Convention/Regulation 2201/2003 (Art. 11 of the Hague Convention/Art. 11, para 3 of the Regulation). There are no measures in place to prevent relocation of the child pending a return application. The court requires an expert assessment from a psychologist or the social services when deciding if the return application should be approved.

The respondent affirms the existence of specialized courts in Poland that handle only international child abduction cases, however no specification on their number is provided.

There is no information on whether judges undergo special training for handling ICA cases. According to the respondent, all courts in Poland have video conferencing facilities for ICA cases allowing parties to appear remotely. The respondent is not sure whether most judges and lawyers in Poland know the identity of the International Hague Liaison Judges and the European Network Judges, and what their role is. Children are always heard in ICA proceedings in Poland and this is carried out by the judge, social services or a child specialist/psychologist and in a child-friendly environment.

As an alternative, if the hearing is not done by the judge, the information from the hearing is presented by a written report to both the judge and the parents. The court does not appoint a Guardian ad Litem for the child or some with similar kind of function. The child is not informed about the consequences of the international child abduction procedure.

In child abduction cases where a return decision by the court has to be enforced, the responsible entities for the enforcement include the judge, police authorities and social services. The enforcement authority is permitted by law to use (reasonable) force when enforcing the return of the child but this has never been used. In a child abduction case requiring enforcement of the return order, the return order suffices, however an applicant has to file a petition for an execution.

In their description of the procedure for the enforcement of the return decisions, the respondent states that an applicant files a petition to execute an order and the judge gives the information to a social worker (*kurator* in Polish). The presence of the applicant is clarified to be obligatory on the day of execution. The social worker can ask the police authorities to assist during the picking up of the child involved. In practice, however, the respondent adds that this procedure does not function properly and they are unfortunately not aware of any successful execution in Poland in child abduction cases.

4.7.3 Mediation

The judges in Poland always refer parents to mediation in international child abduction cases. The court doesn't maintain a specialized list with child abduction family mediators or organisations for such referrals. There are specialized, bi-lingual cross-border mediators who also undertake mediations in child abduction cases and which are usually trained by MiKK. The respondent indicates that there is an existing need for such specialization.

Mediation is possible during the whole procedure of international child abduction. There is an information exchange between the mediators during the mediation procedure and the Central Authorities and the Court on how the mediation procedure is going (if it has stopped, terminated etc.). There are no specialized trainings for mediators on the aspects of international family mediation and its implementation in cases of international child abduction. Legal aid/mediation aid is available for both parents in child abduction cases wishing to mediate. The respondent clarifies that mediators in Poland never see children in mediations in international child abduction cases. In terms of additional information they consider important to share concerning Poland on the topic of 1980 Hague Convention/Regulation 2201/2003 child proceedings and/or mediation in this field, the lack of effective execution has been identified as a key problem. The respondent also adds that mediators are usually not aware of specific abduction cases. In the description of any issues and problems that they have identified during their work on ICA cases and when implementing international family mediation in those cases, the respondent states that there is no way to find an abducting parent if she/he disappears and police authorities do not provide assistance unless a parent has parental responsibility, moreover that child abduction is also not a crime in Poland.

5. Current status on stakeholder needs – lessons learnt

Following from the questionnaire answers received not only from the countries within the iCare Consortium – Bulgaria, Italy, Greece, Germany and Belgium – but also from additional countries as well – the Netherlands and Poland – the current report portrays the existing reality in handling international child abduction cases, including the current setbacks that the stakeholders involved have identified in their professional practice.

Up-to-date information on latest statistics in terms of 1980 Hague Convention/Regulation 2201/2003 international child abduction cases is still needed in multiple countries. It is also not a consistent practice for national Central Authorities to keep a register/list of lawyers that they refer parents to in such cases and, while in the majority of cases parents are informed by the Central Authority of the option for mediation, this is not always the case.

The necessity to increase the expertise of judges, lawyers and mediators on the topic has been identified. Not all countries have specialized courts that hear only ICA cases. Some jurisdictions lack specialized lawyers in such cases and do not provide specialized training for lawyers and mediators. The need to expand the number of topics for the provided trainings was also elaborated upon.

A persisting issue is the time-limit of 6 weeks for ICA cases, provided by the Hague Convention/Regulation 2201/2003 (Art. 11 of the Hague Convention/Art. 11, para 3 of the Regulation) which is not always complied with as lack of sufficient amount of time has been pinpointed as a hurdle.

While measures for prevention of relocation of the child pending a return application exist in most countries, they are either still lacking in some jurisdictions or inconsistency in the practice is witnessed. The practice of having video conferencing facilities that hear ICA cases is also not applied in all of the surveyed countries which may cause further difficulties if the parties are separated by a long distance.

A more effective provision of information regarding the identity of the International Hague Liaison Judges and European Network Judges, as well as the nature of their role, need to be ensured so that national judges and lawyers are aware of them.

Whenever the child is heard in ICA cases, clearer guidelines are required on how to best ensure the hearing takes place in a child-friendly environment and in compliance with their rights and best interests, whether the report from the child's interview should in all cases be shared with the parents, what authority is best suited to hear the child in each individual case and to carry out the enforcement of return decisions. It must also be further clarified in national contexts on whether the return order alone will suffice or not in an ICA case requiring enforcement.

The approach of maintaining a specialized list with ICA family mediators or organisations for referrals is not consistent across the examined countries. In addition, the need for specialized, bilingual cross-border mediators who undertake mediations in child abduction cases has been identified.

The respondents elaborate on the demand for strengthening the information exchange between mediators and Central Authorities and the court during the mediation procedure. More efficient coordination between courts, Central Authorities and NGOs/other institutions has also been recognized as vital. Greater awareness of both practitioners and parents in ICA cases in terms of whether mediation aid is available must also be achieved, especially since the cost of mediation has been identified as a challenge.

The additional need that the court that rendered the decision should execute the enforcement of the return order has also been provided in the questionnaire answers. Also, special procedural rules that would aid judges to concentrate solely on the return issue are in want.

Lack of effective execution of return orders in practice has been noted in some jurisdictions and the practical reality that an abducting parent cannot be easily traced if they decide to disappear too has been communicated in the questionnaire answers.

6. Conclusion

The present D2.1 Report on stakeholder needs summarises the results received from relevant stakeholders (Central Authorities, legal practitioners and mediators) under T2.1 Elaboration and distribution of Questionnaires from the five countries within the iCare

Consortium- namely, Bulgaria, Italy, Greece, Germany and Belgium- with an additional input provided from the Netherlands and Poland. It starts off by delineating the procedure for returning the child under the respective European and international legal frameworks - namely EC Regulation 2201/2003 and the 1980 Hague Convention on the Civil Aspects of International Child Abduction – and it also examines how International Family Mediation applies in the context of the ICA procedure as an alternative dispute resolution method.

Following the already established structure of the distributed questionnaires in T2.1, the Report's main focus lies on how administrative proceedings, judicial proceedings and mediation respectively are handled in these different jurisdictions. It provides a general overview of the setbacks that the identified stakeholders encounter in their work on international child abduction cases and it serves as a source of valuable insights into what their current needs are in order to have such cases handled more effectively and efficiently overall. The Report at hand will serve as a subsequent basis for D2.2 Comparative Analysis Report, D2.3 Recommendation List Analysis report and D2.4 iCare Methodology.

7. Bibliography

1. Guide to Good Practice under the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction (2012).
2. Resolving Family Conflicts. A Guide to International Family Mediation, International Social Service.
3. Parental responsibility in a cross-border context including child abduction, Thematic Unit 3, Family mediation, available at https://www.era-comm.eu/EU_Civil_Justice_Training_Modules/kiosk/courses/Family_Law_Module_2_EN/Thematic%20Unit%203/kiosk/dokuments/Print_Thematic_unit_3.pdf
4. Draft Guide to Good Practice under the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction, Part V – Mediation.
5. International Family Mediation, https://www.ifm-mfi.org/en/guide_section_5.
6. Aldricus, the EJNita project portal, www.aldricus.giustizia.it.
7. Project AMICABLE (www.amicable-eu.org) EC co-funded project was conceived by project co-ordinator MiKK and consists of a project consortium of legalexerts from the University of Wroclaw, University of Alicante and University of Milano-Bicocca.
8. Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters.
9. Council of Europe, European Convention on the Exercise of Children's Rights, 25 January 1996, ETS 160.
10. Council of Europe, European Treaty Series - No. 105, European Convention on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children, Luxemburg, 20.V.1980.
11. Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility (Brussels IIa).

12. Regulation (EU) 2019/1111 of 25 June 2019 on jurisdiction, the recognition and enforcement of decisions in matrimonial matters and the matters of parental responsibility, and on international child abduction (Brussels IIa recast).
13. Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction.
14. Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children.
15. The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (entered into force 1 August 2014).

8. Annexes

8.1 iCare Questionnaire

Description of the project

Taking the child's best interests as a priority, the iCare project will develop and implement novel tools and activities to improve the situation of children in International Child Abduction (ICA) cases through strengthening judicial cooperation and incorporating International Family Mediation (IFM) as complementary to judicial proceedings. This will result in a child-friendly, cost-effective and time-efficient judicial process in ICA cases.

The iCare project aims to enhance judicial cooperation and information exchange among Central Authorities, legal experts (judges, lawyers etc.) and family mediators and to improve the position of children in cases of international child abduction. The project will produce a detailed Methodology, inclusive of a Recommendations list, and an E-Platform for Central Authorities, legal practitioners and family mediators, and-both respecting the right of the child to information and increasing the knowledge of parents. An AI Chatbot will be created, serving as a first point of inquiry for children and parents. The project will also provide outputs for awareness-raising, facilitation of mutual learning and effective dissemination (E-Platform, national Workshops, Webinars, Videos, Newsletter and a Final Conference).

This project is conducted by Law and Internet Foundation - LIF (Bulgaria), Centre for Research & Technology Hellas - CERTH (Greece), Defence for Children International - DCI (Italy), International Mediation Centre for Family Conflict and Child Abduction - MIKK E.V. (Germany), and European Federation for Missing and Sexually Exploited Children AISBL - MCE (Belgium).

The project is implemented with the support of Justice Programme of the European Commission under Grant Agreement №101007436.

What is the purpose of the questionnaire and Why we doing it?

With the help of the Questionnaire the project Consortium will determine what the needs and problems of the Central Authorities, legal practitioners (lawyers, judges, prosecutors etc.) and family mediators are when dealing with cases of international child abduction. In addition to this, the questionnaire will help finding out what the problems

and necessities required to enhance judicial cooperation and to improve the position of children in those cases are. The results from the questionnaire will be presented in the following national workshops and will serve for the preparation of a report that will determine the current situation in the partner countries. The report will be public, and it will be uploaded into the project website: <https://project-icare.eu/>

Participant information sheet:

You have been invited to take part as an expert in International child abduction matters in the EU project iCare. Before making a decision on whether you want to participate or not, please read this document carefully. Please ask all the questions you may have so you can be completely sure that you understand all the proceedings of the iCare Questionnaire, including risks and benefits. At all times, we assure compliance with the current national and European legislation.

What will I be required to do?

You will need to answer all questions, expressing your opinion based on your professional expertise on the needs and problems of the experts involved in International child abduction cases as well as necessities and problems required to enhance judicial cooperation in them.

What will be my participation in the project?

Your participation in the iCare project will only consist in the completion of the questionnaire.

When will I have the opportunity to discuss my participation?

You have the opportunity to discuss your participation upon the first contact made in relation to iCare Questionnaire with the respective project partner who has reached out to you in your expert capacity.

Who is the data controller?

As this questionnaire is carried out by all iCare partners, they are acting as joint controllers. You can contact them at icare@netlaw.bg

Are you going to share my personal data and opinions?

Any information that might identify you will be removed from the document analysing and reporting the results of the iCare questionnaire. This information will be accessible only to the iCare partners directly involved in this activity and will be treated as confidential. When the information you have provided is used for the writing of a report, iCare team will remove all personal information so that your identity and experiences remain confidential (unless attribution is required, and you have consented to it).

How long will my data be stored?

Your personal data might be stored up until 5 years after the completion of the project. The received personal information will be stored in electronic form, kept as separate files in a secure manner (including password protection).

What are my rights?

Answering the questionnaire is completely voluntary and you can withdraw from it without repercussions, at any time, before it starts or while participating. You are entitled to:

- the right to withdraw your consent at any time.
- the right to information – whether personal data about yourself is being processed.
- the right to access to your personal data processed.
- the right to correct and update your personal data processed, i.e. to notify us if you change your email.
- the right to request deletion – this right could be exercised in cases where the personal data is no longer necessary, the personal data processing is unlawful, if it is collected and processed on the basis of a parental consent.
- the right to request restriction of the processing of your personal data – this right could be exercised where you have contested the accuracy of the personal data, where the

processing is unlawful, the data is no longer necessary for the purposes of processing by the user requires its storage for the establishment, exercise or defense of legal claims.

In order to exercise any of the rights listed above, you can send a message to icare@netlaw.bg. You have also the right to submit a complaint to the national data protection authority, if you deem that your data is processed unlawfully.

Informed consent form

By participating in this survey, I consent to voluntarily participate in the iCare project (Improving the Situation of Children in International Child Abduction cases through Judicial CoopeRation and Family MEdition) funded by the European Commission (GrandAgreement № 101007436) and coordinated by the Law and Internet Foundation (LIF).

I understand that I am free to withdraw from the study at any time without giving a reason for my withdrawal or to decline to answer any particular questions in the questionnaire without any consequences.

I consent to the processing of my personal data relating to my participation in this questionnaire.

Please state your professional background:

- Family Judge
- Family Lawyer
- Prosecutor
- Mediator
- Other, please indicate: _____

Please state how long your professional experience is:

- 0-5 years
- 5-10 years
- 10 – 20 years
- more than 20 years

ICare Questionnaire on existing needs

- *Most of the closed questions have only one answer.*
- *The questions that have more than one answer are marked.*
- *If you don't have an answer to a question you can skip it and proceed to the next one.*

Administrative Proceedings (Central Authorities)

1. How many 1980 Hague/Regulation 2201/2003 child abduction cases were handled by your EU Member State in 2019 and 2020 concerning:

Child abduction cases:

Number of incoming cases: _____

Number of outgoing cases: _____

Access applications:

Number of incoming cases: _____

Number of outgoing cases: _____

No information

2. Concerning the above number of child abduction cases, does this number include cases that were not processed by the Central Authority but went to the courts directly? (to the best of your knowledge)?

Yes

No

No information

3. How many employees/case officers work at the Central Authority of your EU Member State that handle Child Abduction Cases?

1-5

5-10

More than 10

4. Does the Central Authority in your EU Member State refer parents to lawyers?

Yes

(a) Are these lawyers specialized in child abduction cases?

Yes

No

(b) Does the Central Authority keep a register/list of lawyers that they refer parents to?

Yes

No

No

No information

5. Does the Central authority of your EU Member State regularly inform the parents in a child abduction case about the option of mediation?

Yes

If yes, please answer below:

Both parents are informed

Only the Applicant is informed

Only the Respondent Parent

(a) How is this information communicated?:

By letter

By telephone

Indirectly through the lawyer

By other means

(b) What information does the Central Authority pass on about mediation?

No

Why, to the best of your knowledge, is information about mediation not given?

- Central Authority is not aware of mediation
- Central Authority believes mediation is not suitable for child abduction proceedings
- Mediation is not an established in my EU Member State
- There are no qualified mediators for child abduction cases in my EU Member State

Judicial Proceedings

I. Legal Aid

6. Is Legal Aid available for legal representation for parents in child abduction cases in your EU Member State?
 - Yes (only for the applicant)
 - Yes (for both sides)
 - No
 - No information
7. Is Legal Aid means-tested (i.e. available only for parents on low income)?
 - Yes
 - No
 - No information
8. Are there specialized lawyers in your EU Member State for parental child abduction cases?
 - Yes (Please name relevant organization or institution that list these specialized lawyers.)
 - No
 - No information
9. Are there training institutions or organizations in your EU Member State that provide specialized training for family lawyers in the field of parental child abduction cases?
 - Yes (Please name the organisation/institution that is responsible for the trainings.....)
 - No
 - No information

II. Court Proceedings

10. Does your jurisdiction comply with the 6-week period provided by the Hague Convention/Regulation 2201/2003 (Art. 11 of the Hague Convention/Art. 11, para 3 of the Regulation)?
 - Yes
 - No
 - No information
11. Are there measures in place to prevent relocation of the child pending a return application?
 - Yes
 - No
 - No information
12. When deciding if the return application should be approved, does the court require an expert assessment from a psychologist or the social services?
 - Yes
 - No
 - No information
13. Are there specialized courts in your country that handles only international child abduction cases?
 - Yes (How many specialized courts exist in total?)
 - No
 - No information
14. If you answer No to the previous question. Is there a specialization between judges in courts that are handling international child abduction cases?
 - Yes
 - No
 - No information
15. Do judges undergo special training for handling international child abduction cases?
 - Yes (Which organisation/institution provides this training)
 - No
 - No information
16. Do Video conferencing suites exist in the courts of your country that hear international child abduction cases allowing parties to appear remotely?
 - Yes, all courts have video conferencing facilities
 - Only some courts have video conferencing facilities
 - No
 - No information
17. As far as you are aware, do most judges and lawyers in your EU Member State know the identity of your International Hague Liaison Judges and what their role is?
 - Yes
 - Some
 - No
 - Not sure

18. As far as you are aware, do most judges and lawyers in your EU Member State know the identity of your European Network Judges and what their role is?

- Yes
- Some
- No
- Not sure

19. Are children always heard in international child abduction proceedings?

- Yes

If you have answered yes, please specify by whom the child is heard?

- The Judge
- Social services
- Child specialist/psychologist
- Guardian ad Litem
- None of the above
- Other (Please specify.....)

- Sometimes
- No
- Not sure

20. Are children heard in a child-friendly environment?

- Yes (Please specify your answer.....)
- Sometimes
- No
- Not sure

21. If the child is not heard by the judge directly, how is the information from the child interview fed back to the Judge and to the parents?

- Written report to the Judge only
- Oral report to the Judge only
- Written report to both the Judge and the parents
- Oral report to both the Judge and the parents
- Other (Please specify.....)

22. Does the court appoint a Guardian ad Litem for the child or some with similar kind of function?

- Yes
- No
- It depends on the age of the child
- Not sure

23. Is the child informed about the consequences of the international child abduction procedure?

- Yes

If you have answered yes, please specify by whom the child is informed?

- The Judge

- Social services
- Child specialist/psychologist
- Guardian ad Litem
- None of the above
- Other (Please specify.....)

- No
- No information

24. In child abduction cases where a return decision by the court in your country has to be enforced what authority is responsible for carrying out the enforcement? (multiple choices)

- Judge
- Bailiff
- Police Authorities
- Social Services
- Other, please indicate: _____

Is the enforcement authority by law permitted to use (reasonable) force when enforcing the return of the child?

- Yes
- No

25. In a child abduction case requiring enforcement of the return order, will the return order usually suffice or is the applicant parent required to return back to court to seek further order for enforcement?

- Return order suffices
- Applicant will need to seek a further order
- No information
- Other (Please specify.....)

26. Could you describe in short, the procedure for the enforcement of the return decisions?

Mediation

27. Do Judges in your EU Member State refer parents to mediation in International child abduction cases?

- Yes, always
- Yes, some judges do
- No
- No information

28. Does the court maintains a specialized list with child abduction family mediators or organisations for such refers?

- Yes
- Yes, some judges
- No
- No information

29. Are there specialized, bi-lingual cross-border mediators in your EU Member State who also undertake mediations in child abduction cases?

- Yes (How or where did they obtain specialization?.....)
- No
- No information

Do you think a need exist for such specialization?

- Yes
- No
- No opinion

30. At what stage of the procedure of international child abduction could the parties switch to a mediation procedure? (multiple choice)

- During the procedure at the Central Authority
- During the court procedure
- During the procedure of the implementation of the return order
- Mediation is possible during the whole procedure

31. Is there an information exchange between the mediators during the mediation procedure and the Central Authorities and the Court on how the mediation procedure is going (if it has stopped, terminated etc.)?

- Yes
- No
- No information

32. Are there specialized trainings for mediators on the aspects of international family mediation and its implementation in cases of international child abduction?

- Yes
- No
- No information

33. Is legal Aid/Mediation Aid available for parents in child abduction cases wishing to mediate?

- Yes, for both parties,
- Yes, only for the applicant
- No
- No information

34. Do mediators in your EU Member State also see children in mediations in international child abduction cases?

- Yes

How is the information from seeing the child fed-back to the parents?

- In a written report by the mediator
- In an oral report by the mediator

Letter drawing by the child to the parents

Other (Please specify.....)

Sometimes

Never

35. What other information do you think is important to share concerning your EU Member State on the topic of 1980 Hague/Regulation 2201/2003 child abduction proceedings and/or mediation in this field?

36. Finally, could you please describe any issues and problems that you have identified during your work on cases of international child abduction and when implementing international family mediation in those cases?