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ICare2

National Report on Bulgaria



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Acronyms

Alternative Dispute Resolution	ADR
Council of Europe European Commission for the Efficiency of Justice	CEPEJ
Child Protection Act	CPA
Civil Procedure Code	CPC
European Union	EU
Family Code	FC
International Family Mediation	IFM
International Social Service	ISS
Mediation Act	MA
Member States	MSs
Non-governmental organisation	NGO
United Nations	UN
United Nations Convention on the Rights of the Child	UNCRC

1 Introduction

According to a 2022 report by the European Youth Forum, over 100,000 children and adolescents go missing annually in the European Union (EU) - a figure that is likely much higher due to under-registration and inconsistent reporting across Member States (MSs)¹. Of these cases, international child abductions represent the second largest group of missing children in the EU². Although in Bulgaria, there is currently no official national database or systematically collected statistics on international child abduction cases³, available figures, drawn from informal sources⁴, suggest that in 2023, the Ministry of Justice received 23 applications for the return of abducted children under the Hague Convention on the Civil Aspects of International Child Abduction⁵.

Given the growing number of international families and the high divorce rates within the EU, national courts are increasingly overburdened, making Alternative Dispute Resolution (ADR) mechanisms more vital than ever⁶. Research consistently demonstrates that cross-border family mediation offers a faster, more cost-effective, and highly efficient method for resolving international child abduction cases, with the majority resulting in either a full or partial agreement⁷. Nevertheless, its practical implementation remains limited. According to 2024 Report from the 116 000 Missing Children hotlines, a greater number of parental abduction cases were resolved through court decisions than through mediation or amicable agreements, underscoring the underutilisation of mediation in this area⁸.

¹ European Youth Forum, *Missing Children: International Child Abduction and the Role of Mediation* (2022) https://www.youthforum.org/files/241122_M-child-abduction.pdf.

² Missing Children Europe. "International Child Abduction." *Missing Children Europe*, available at: <https://missingchildreneurope.eu/international-child-abduction/>.

³ iCare2 questionnaire responses.

⁴ Snezhina Kovacheva, 'International Child Abduction' (Advokat Kovacheva, 2024), available at: <https://advokatkovacheva.bg/mezhdunarodno-otvlichane-na-dete1/>.

⁵ Convention on the Civil Aspects of International Child Abduction, 25 October 1980, 1343 U.N.T.S. 89.

⁶ Micheva-Ruseva, Virginia. *The Mediation Landscape in the EU*. Co-funded by the European Union, available at: https://era-comm.eu/Language_Mediation/wp-content/uploads/2018/10/118DT102_Micheva_Ruseva_1.pdf.

⁷ Missing Children Europe. *Figures and Trends 2020: From Hotlines for Missing Children and Cross-Border Family Mediators*. Missing Children Europe, 2021, available at: <https://missingchildreneurope.eu/?wpdmdl=2558>.

⁸ Missing Children Europe. *Figures & Trends 2024*, available at: <https://missingchildreneurope.eu/download/figures-and-trends-2024/?ind=1748435480512&filename=MCE-Figures-Trends-2024.pdf&wpdmdl=6719&refresh=68370221901d71748435489>.

The situation in Bulgaria reflects similar challenges. While mediation is increasingly promoted in domestic family matters, the use of International Family Mediation (IFM) in cross-border disputes, including those involving international child abductions, remains limited and lacks systematic integration into practice⁹. This gap is attributed to a combination of factors, including a lack of awareness among legal and social professionals, insufficient specialised training, and the absence of formalised procedures and institutional support¹⁰. As a result of these challenges, families facing cross-border conflicts often resort to lengthy judicial proceedings rather than exploring mediation as an alternative.

This national report explores the current state of IFM in international child abduction cases in Bulgaria, examining the legislative framework, institutional infrastructure, practical implementation, and challenges to broader adoption. It explores key obstacles such as gaps in legislation, limited awareness, inconsistent application, and a lack of specialised training for mediators. Emphasis is placed on the child's role in the mediation process, the handling of cases involving domestic violence, and the degree to which Bulgarian practices align with European and international standards. The report concludes with recommendations to strengthen the system and promote more effective, child-centered cross-border mediation.

To support this analysis, input was gathered through questionnaires distributed to mediators and experts in international law, hereafter referred to as “the questionnaires” or the “iCare2 questionnaires”. The questionnaires covered both national and international aspects of family mediation, including the national legal framework, the application of EU and international standards, practical challenges, training and qualification requirements, child participation and the involvement of key institutions. The information obtained from their responses is reflected throughout the report.

⁹ iCare2 questionnaires

¹⁰ Ibid.

2 International Family Mediation in Bulgaria: The Legal Framework

As a party to the 1980¹¹ *Hague Convention*, Bulgaria is committed to promoting the peaceful resolution of cross-border family disputes, including those involving international child abductions. The Bulgarian Ministry of Justice, designated under Article 6 of the 1980 Hague Convention as the Central Authority, plays a central role in encouraging the voluntary return of children and supporting the use of mediation to achieve amicable, child-focused solutions¹². In addition, Bulgaria is subject to EU regulations such as the *Brussels II-ter Regulation*¹³, which reinforces the role of mediation in cross-border family cases and introduces obligations for courts and authorities to actively promote its use¹⁴.

This section examines the transition from *Brussels II-bis*¹⁵ to *Brussels II-ter*, alongside domestic legislation, including the *Mediation Act* (MA)¹⁶, the *Civil Procedure Code* (CPC)¹⁷, the *Child Protection Act* (CPA)¹⁸, and the *Family Code* (FC)¹⁹, which together support the development and practice of IFM in Bulgaria. Particular focus is given to current proposals for the amendment of mediation legislation and the ongoing debates around them, as well as concerns about the suitability of mediation in cases involving domestic violence and the evolving role of the child in the mediation process.

¹¹ Supra note 5.

¹² Supra note 5, Article 7(c).

¹³ 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 (recast) ST/8214/2019/INIT.

¹⁴ Article 25.

¹⁵ 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 OJ L 338, 23.12.2003, p. 1-29.

¹⁶ Mediation Act, promulgated in *State Gazette* No. 110 of 17 December 2004, last amended in SG No. 57 of 5 July 2024.

¹⁷ Civil Procedure Code, promulgated in *State Gazette* No. 59 of 20 July 2007, last amended in SG No. 26 of 27 March 2025.

¹⁸ Child Protection Act, promulgated in *State Gazette* No. 48 of 13 June 2000, last amended in SG No. 79 of 17 September 2024.

¹⁹ Family Code, promulgated in *State Gazette* No. 47 of 23 June 2009, last amended in SG No. 26 of 27 March 2025.

2.1 International Legal Framework

2.1.1 Brussels II-ter (Regulation (EU) 2019/1111)

The Brussels II-bis Regulation (Council Regulation (EC) No 2201/2003)²⁰ constituted the cornerstone of the EU's legal framework concerning jurisdiction, recognition, and enforcement of judgments in matrimonial matters and matters of parental responsibility, including international child abduction. However, despite its broad scope, the Regulation omitted to establish a substantive framework for mediation, offering only a procedural reference through assigning Central Authorities the role of promoting mediation in cross-border family disputes²¹. This reference to ADR was limited, lacking binding obligations on courts or comprehensive safeguards for vulnerable parties such as children or victims of domestic violence.

In contrast, the Brussels II-ter Regulation (Regulation (EU) 2019/1111)²² takes a more proactive stance by recognising the growing importance of mediation and other ADR mechanisms in cross-border family disputes²³ and incorporating them into its framework. It expressly encourages courts, in all child-related proceedings (an exception is made in cases of domestic violence) to consider the possibility of resolving disputes through mediation or other appropriate means, with the assistance, where relevant, of existing cross-border mediation networks²⁴. Article 25 of the Regulation requires not only Central Authorities but also courts and other competent bodies to actively promote mediation, unless doing so would be contrary to the best interests of the child. This further reflects evolving international standards, particularly those found in the United Nations Convention on the Rights of the Child (UNCRC)²⁵, which emphasises the importance of resolving disputes affecting children in a peaceful and timely manner that prioritises the child's best interests²⁶. However, the Regulation's lack of a standardised procedure or minimum age definition for hearing the child may lead to non-recognition of agreements in other MSs, as failure to ensure the

²⁰ 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 *OJ L 338*, 23.12.2003, p. 1–29.

²¹ Art. 55(e) Regulation 2201/2003

²² *Supra* note 13.

²³ Para 35.

²⁴ Recital 43.

²⁵ Convention on the Rights of the Child, 20 November 1989, 1577 U.N.T.S. 3

²⁶ Art. 21 Regulation 2019/1111

child's participation can be grounds for refusal of recognition or enforcement under Articles 39 and 68.

To balance ADR with procedural efficiency, the Regulation cautions that efforts to reach an agreement through ADR must not unduly delay return proceedings under the 1980 Hague Convention²⁷. For example, in return proceedings under the 1980 Hague Convention, courts are required to issue a decision within six weeks, unless exceptional circumstances justify a delay²⁸. The mere use of mediation does not in itself qualify as such a circumstance. However, delays arising as a result of the mediation process, for example, if complexities emerge during discussions, may constitute valid exceptions. Furthermore, it recommends that Member States allow courts seised under the Hague Convention to also exercise jurisdiction over matters of parental responsibility where the parents have reached an agreement during return proceedings. This recommendation has not been adopted in Bulgaria²⁹.

In response to the obligations under *Brussels II-ter*, Bulgarian judges must ensure that parties understand mediation as a viable option and encourage its use both before and during proceedings, especially where it supports the child's best interests and may lead to faster, less adversarial outcomes. However, although the Brussels II-ter Regulation is directly applicable and does not require transposition into Bulgarian law, this has led to its entry into force receiving little attention, and its practical implementation remains inconsistent due to the absence of accompanying national measures or guidance³⁰.

2.2 IFM within the National Legal Framework

2.2.1 Mediation Act

The Mediation Act establishes the legal basis for mediation in Bulgaria, defining it as a voluntary and confidential process, facilitated by a neutral third party who assists the parties in reaching a settlement³¹. Crucially, in Article 3³², the Act explicitly recognises cross-border disputes as falling within its scope³³. This inclusion is further elaborated in an additional provision³⁴, which defines a

²⁷ Ibid.

²⁸ Brussels II-ter Regulation, Recital (42).

²⁹ Judge Svetlana Micheva, 'New Developments in the Field of Family Law in the EU' (Lex.bg, 15 March 2023), available at: <https://news.lex.bg/нови-моменти-в-областта-на-семејното-п/>.

³⁰ Ibid.

³¹ Art. 2 Mediation Act

³² Art 3 Mediation Act

³³ Art. 3(1) Mediation Act

³⁴ § 1 of the Supplementary Provisions of the Mediation Act

"cross-border dispute" as a dispute in which at least one of the parties is domiciled or habitually resident in a Member State of the EU other than that of any of the other parties at the time they agree to participate in mediation or are invited to do so by a court. Furthermore, a dispute also qualifies as cross-border if subsequent judicial or arbitral proceedings are initiated in a Member State different from the one in which the parties were domiciled or habitually resident at the relevant time. Accordingly, this provision, together with the express reference to cross-border disputes in Article 3, places IFM within the scope and applicability of the relevant legislative framework. However, the framework applies exclusively to cross-border disputes within the EU.

The incorporation of the cross-border dimension in the Mediation Act has both legal and systemic significance. From a legal standpoint, it ensures that international family disputes are not treated differently from domestic ones when it comes to access to mediation. Systemically, it embeds IFM within the dispute resolution infrastructure, opening the door for the development of specialised training for mediators in cross-border issues, as well as institutional cooperation between the national and international mediation centres. Nevertheless, while international family mediation is clearly defined within the Act's scope, it is not accompanied by specific provisions or procedures that distinguish it from national mediation.

Beyond its recognition of cross-border disputes, *the Mediation Act* lays out the core principles governing the mediation process in Bulgaria. A key element is its voluntary nature: parties may enter into or withdraw from the process at any time, and while courts may recommend or encourage mediation, they cannot compel parties to reach a settlement. This, however, is currently under review with a proposed legislative amendment³⁵ aimed at introducing a mandatory information session on mediation for the parties (see Section 2.2.1.2). Furthermore, the Act imposes strict rules to ensure that all information exchanged during mediation remains protected, not only by the mediator and the parties, but also by any third parties involved³⁶. The principle of confidentiality continues to apply even if the dispute proceeds to court. Procedurally, the Act provides a flexible framework within certain limits. According to Article 15(1)³⁷ the mediation process is automatically terminated upon the expiration of six months from its commencement. However, if the first mediation procedure is not successful, parties who wish to initiate a new one after this period may do so, with no legal restriction on the number of renewals.

35 Proposal for legislative amendment of the Civil Procedural Code, published for public consultation on April 3rd, 2025 to the Council of Ministers' Public Consultations Portal

³⁶ Article 7.

³⁷ Art. 15(1)6 Mediation Act

Within this timeframe, mediators may conduct both joint sessions and separate meetings with each party, depending on the nature and complexity of the issues. Importantly, Article 11a stipulates that the statute of limitations is suspended during the mediation process, safeguarding the parties' legal rights while they attempt to reach an amicable resolution.

2.2.1.1 Ordinance No. 2 of 2007

In Bulgaria, to qualify as a family mediator, candidates are required to complete a general mediation training course in accordance with Ordinance No. 2 of 2007³⁸. The course is delivered by various mediation associations and comprises a minimum of 60 hours of training approved by the Ministry of Justice. It includes both theoretical and practical components, a minimum of 30 hours each, and covers subjects such as conflict resolution techniques, communication skills, legal principles relevant to mediation, and core ethical standards. The content applies across a range of practice areas, including family, commercial, and other types of disputes. The training concludes with an examination conducted by a commission of the respective training organisation and includes a test to assess the acquired knowledge, participation in a simulated mediation procedure, and an oral exam. Upon successful completion of the training, individuals become eligible for entry into the Unified Register of Mediators - an essential legal requirement for practicing mediation in Bulgaria, after which mediators are permitted to practice immediately, without the need for further specialisation in any specific area, such as family mediation.

This lack of mandatory additional specialisation presents a significant shortcoming in the current legal framework. It raises serious concerns about the quality of mediation services when mediators lack the proper training to handle sensitive issues, particularly those arising international family disputes such as international child abduction. As highlighted by the European Commission for the Efficiency of Justice (CEPEJ), specialised training in family mediation is of critical importance, with particular emphasis on the need for mediators to be trained to uphold the best interests of the child³⁹. Such training is deemed essential to ensure that mediators are adequately prepared to assess the

³⁸ Ordinance No. 2 of 15 March 2007 on the Conditions and Procedure for the Approval of Organizations Conducting Mediator Training, the Requirements for the Training, and the Procedure for Entry, Removal, and Deletion from the Unified Register of Mediators, available at: [Regulation No. 2 to the Mediation Act - ACADEMY MEDIATE](#).

³⁹ Congress of Deputies, *Evaluation of Directive 2008/52/EC on Mediation in Civil and Commercial Matters* (Legislative Session 14, SPL 49, 2016), available at: https://www.congreso.es/docu/docum/ddocum/dosieres/sleg/legislatura_14/spl_49/pdfs/63.pdf.

suitability of cases and to manage the complexities of international family disputes effectively. Although recent amendments to *the Mediation Act* and *the Civil Procedure Code* have been proposed, they only partially address the issue. Moreover, it remains unclear whether, if enacted, these amendments would apply directly to mediators involved in international child abduction cases.

Another serious gap in the legal framework is the absence of clear qualification standards for mediator trainers. While Ordinance No. 2 outlines quality requirements for institutions offering mediation training, such as curriculum development, instructor credentials, teaching methods, and training facilities, it does not go far enough in setting specific standards for the trainers themselves. As it currently stands, the only requirement is that mediation training can be delivered by organisations employing specialists with experience and qualifications in mediation, and who are approved by an order of the Minister of Justice⁴⁰.

2.2.1.2 National debate on mandatory mediation

In Bulgaria and across the EU, the role of mandatory mediation in civil justice systems has become an increasingly important topic of legal and policy debate. The Mediation Directive explicitly leaves it to the discretion of MSs whether or not to implement mandatory mediation⁴¹. The goal is to encourage early resolution of disputes and reduce pressure on overburdened judicial systems. The core issue lies in finding the right balance between promoting mediation as a quicker, less adversarial alternative to litigation, while also respecting fundamental rights such as access to justice and the voluntary nature of dispute resolution. Across the EU, no country forces parties to reach a settlement through mediation, as this would conflict with the principle of voluntariness that lies at the heart of mediation.⁴² However a number of countries have introduced different models for mandatory involving of the parties in a mediation process.

For instance, Italy uses a “soft mandatory” model in some civil cases where parties must attend at least one mediation session before filing a lawsuit, though

⁴⁰ Article 2 of Ordinance 2 of 2007.

⁴¹ 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 *OJ L 136, 24.5.2008, p. 3–8*, Art. 5(2).

⁴² 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, *OJ L 136, 24.5.2008, p. 3*

they can choose not to continue with mediation afterward⁴³. Similarly, in England and Wales, parties involved in family disputes are generally required to attend a Mediation Information and Assessment Meeting (MIAM), and courts may impose cost penalties on those who refuse to participate without a valid reason⁴⁴.

In 2023 Bulgaria also proposed amendments to the Mediation Act and the Civil Procedure Code aimed at introducing reforms in this area⁴⁵. These changes aimed to introduce mandatory initial mediation sessions in specific civil disputes, such as certain family law cases, and establish court-based mediation centres staffed by specially trained mediators. However, the Bulgarian Constitutional Court ruled these amendments unconstitutional in 2024⁴⁶. The Court found that forcing parties to participate in mediation, even if only initially, violated their right to free access to the courts, legal equality, and imposed an unfair financial burden, especially in sensitive disputes like family cases.

In response, a new legislative proposal was introduced in 2025⁴⁷. This proposal seeks to carefully redesign the framework for court-connected mediation in a way that addresses the Constitutional Court's concerns. The revised draft aims to align with Bulgaria's commitments under the National Recovery and Resilience Plan⁴⁸ and supports the EU-wide goal of expanding alternative dispute resolution mechanisms. It introduces more flexible provisions that

⁴³ Leonardo D'Urso, Julia Radanova and Constantin Adi Gavrilă, 'The Italian Opt-Out Model: A Soft Mandatory Mediation Approach in Light of the Recent CJEU Decision' (Kluwer Mediation Blog, 14 October 2024), available at: <https://mediationblog.kluwerarbitration.com/2024/10/14/the-italian-opt-out-model-a-soft-mandatory-mediation-approach-in-light-of-the-recent-cjue-decision/The-Italian-Opt-Out-Model: A Soft Mandatory Mediation Approach in Light of the Recent CJUE Decision - Kluwer Mediation Blog>

⁴⁴ Stevensdrake Solicitors, 'Changes to the Family Law Rules on Non-Court Dispute Resolution/ADR' (7 May 2024), available at: <https://www.stevensdrake.com/articles/changes-to-the-family-law-rules-on-non-court-dispute-resolution-adr?>

⁴⁵ Sections 19-25 Mediation Act

⁴⁶ Tsvetelina Koleva, 'Mandatory Mediation Has Been Declared Unconstitutional' (In: Arbitration Bulgaria, 15 July 2024), available at: <https://arbitrationbulgaria.com/2024/07/15/mandatory-mediation-has-been-declared-unconstitutional/>

⁴⁷ Ministry of Justice of the Republic of Bulgaria, "Public Consultation on the Draft Law Amending and Supplementing the Civil Procedure Code", available at: <https://strategy.bg/PublicConsultations/View.aspx?lang=bg-BG&Id=9020>

⁴⁸ Council of Ministers of the Republic of Bulgaria, National Recovery and Resilience Plan of the Republic of Bulgaria, November 2024, available at: <https://www.mtc.government.bg/sites/default/files/documents/2024-11/BG%20RRP%20EN.pdf>

encourage mediation without making it coercive, ensures adequate protections for vulnerable parties (particularly in family matters), and places stronger emphasis on mediator qualifications and institutional accountability. Mediation associations submitted various official opinions in support of these amendments⁴⁹, and currently, there are ongoing discussions at the national level on the topic.

However, despite Bulgaria's attempt to promote mediation in family matters, the matter of international family mediation, particularly in child abduction cases, is not clearly included in the scope of the proposed amendments. The draft legislation on mandatory mediation explicitly limits its application to certain family disputes⁵⁰ governed by the Family Code, such as divorce, child residence, and parental rights, but makes no mention of cross-border child abduction. This omission is significant, as it reflects the broader absence of any reference to international family disputes within the Family Code itself, including cases under the Hague Convention. As a result, mediation remains legally and procedurally disconnected from this sensitive and complex area, despite its recognised importance in international practice.

2.2.2 Civil Procedure Code

In addition to the provisions in the MA, the *Civil Procedure Code* provides a mechanism for the judicial recognition of settlement agreements reached through mediation. Article 234⁵¹ allows parties who reach a mediated agreement during litigation to submit it to the court for approval. Once confirmed, the agreement carries the legal weight of a court judgment and is directly enforceable. The court must ensure that the agreement does not contravene mandatory legal norms or public policy⁵². In addition to this post-mediation recognition, the CPC also encourages the use of mediation at an earlier stage. Article 140(3)⁵³ of the CPC empowers judges, at the initial hearing, to suggest mediation or an amicable settlement and to temporarily suspend proceedings to allow for it. However, this is purely discretionary, as there is no legal obligation for judges to make such a referral. As a result, the uptake of mediation often depends on judicial culture and the willingness of the parties involved.

⁴⁹ Ministry of Justice of the Republic of Bulgaria, "Public Consultation on the Draft Law Amending and Supplementing the Civil Procedure Code"

⁵⁰ § 8 of the Act for the Amendment and Supplementation of the Civil Procedure Code

⁵¹ Art. 234 Civil Procedure Code.

⁵² Ibid.

⁵³ Art. 140(3) Civil Procedure Code.

2.2.3 Child Protection Act and Family Code

The *Child Protection Act*, enacted in 2000 and last amended in 2024, establishes the key legal framework for safeguarding the rights and welfare of children in Bulgaria. It affirms the primacy of the child's best interests and outlines the responsibilities of parents, guardians, and public authorities in safeguarding these interests. Significantly, the CPA also addresses the resolution of disputes involving children, not only in domestic contexts but also in international settings. Of particular relevance to international family mediation is Article 22c⁵⁴, which regulates proceedings for the return of a child or the exercise of rights of access. Under this provision, the court is encouraged to assist parties in voluntarily resolving their dispute. The court may refer parties to mediation at any stage of the proceedings, provided this does not delay the case and remains consistent with the time limits set out in Article 24(2) of the *Brussels II-ter*.

In addition to the provisions of the CPA, the *Family Code* recognises and facilitates extrajudicial settlements, particularly in matters of divorce, child custody, visitation rights, and parental authority⁵⁵. For instance, when disputes over parental responsibility occur, the Code enables the parties to reach an agreement through mediation⁵⁶, which once approved by the court, becomes legally binding. However, although the Code allows courts to approve agreements on matters such as child custody, visitation, and support, thereby giving legal effect to mediated outcomes - it treats all such agreements as purely domestic in nature and makes no reference to family disputes involving international child abduction or cross-border parental conflicts. The only such reference is found in Article 127b, which allows a regional court in Bulgaria to impose a travel ban on a child if there is a clear and specific risk of unlawful removal from the country, particularly where such removal would violate parental rights established by law, court decision, or agreement. Furthermore, there is no guidance on cooperation with foreign courts or central authorities under the 1980 Hague Convention, nor any procedural guidance on handling such sensitive disputes through mediation. This leaves a significant gap in the legal structure, limiting the Code's ability to support IFM in situations where cross-border cooperation is essential to protecting the child's best interests.

2.2.1 Legal Framework on Child Participation in Mediation

Children, under both international and national law, have the right to be heard and informed and have their best interests duly considered in all matters

⁵⁴ Art. 22c Child Protection Code.

⁵⁵ Article 49 and Article 123 of the Family Code.

⁵⁶ Article 59.

affecting them. While these rights are formally recognised in Bulgarian legislation, the analysis below explores whether the existing legal provisions provide sufficient clarity, procedural safeguards, and practical mechanisms to ensure meaningful and consistent child participation, particularly in the context of family mediation in cross-border disputes.

2.2.1.1 The Best Interest of the Child

The UNCRC adopted by the UN General Assembly in 1989, and ratified by Bulgaria in 1991⁵⁷, defines the "best interests of the child" as a primary consideration in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities, or legislative bodies⁵⁸. According to the UNCRC, determining the best interests of the child requires consideration of the child's well-being and holistic development, taking into account the child's own views in accordance with their age and maturity, as well as their right to protection, provision, and participation. Furthermore, the principle's inclusion in *Brussels II-ter* reaffirms that the best interests of the child must be a primary consideration in international family mediation⁵⁹.

In Bulgaria, the principle of the best interests of the child is embedded in family law and child protection legislation. The Family Code mandates that courts prioritise it in matters of custody, visitation, and parental rights⁶⁰. Similarly, the *Child Protection Act* in Bulgaria is founded on several core principles, one of which is the fundamental principle of ensuring the child's best interests. The Act defines the "best interests of the child" as an assessment that considers various important factors⁶¹. These include the child's wishes and feelings, their physical, psychological, and emotional needs, as well as their age, gender, past experiences, and other individual characteristics. The assessment also takes into account various relevant factors impacting the child, among which are the danger or harm that the child has experienced or may experience, the parents' ability to care for the child, and the potential consequences for the child if the circumstances change. While the Act clearly establishes the best interests of the child as a central guiding principle in child protection, it is framed within the

⁵⁷ United Nations Office of the High Commissioner for Human Rights (OHCHR). *Ratification Status for CRC – Convention on the Rights of the Child*, UN Treaty Body Database, available at: https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?Treaty=CRC.

⁵⁸ Article 3(1) Convention on the Rights of the Child

⁵⁹ Article 25.

⁶⁰ Art. 123(1) Family Code.

⁶¹ § 1(5) Child Protection Act.

context of procedural and decision-making guidelines, rather than being enshrined as an independent, enforceable substantive right.

2.2.1.2 The Right of the Child to be Heard

Article 12 of the UNCRC guarantees that children capable of forming their own views have the right to express them freely in all matters affecting them, with those views given due weight according to their age and maturity⁶². This right is further enshrined in *the Charter of Fundamental Rights of the EU*⁶³, hereafter referred to as “the Charter” and the *Brussels II-ter Regulation*⁶⁴.

As a party to the abovementioned treaties, Bulgaria is obliged to ensure the right of the child to be heard in all matters affecting them. On a national level, the right of the child to be heard is enshrined in Bulgarian laws, such as *the Child Protection Act* and *the Family Code*. However, it is currently framed exclusively within the context of judicial and administrative proceedings, with no explicit extension to alternative dispute resolution mechanisms such as mediation. Under the *Child Protection Act*, children over the age of 10 must be heard in any administrative or judicial proceeding affecting their interests, unless it is determined that such participation would be contrary to their best interests⁶⁵. For children under the age of 10, participation is permitted based on their developmental stage, although the decision is left to the discretion of the competent authority⁶⁶. However, the Act does not provide clear guidance on the role or weight of the child's opinion within the litigation process, which continues to hinder how professionals approach hearing children in practice. The Act does not make any mention of the child's role in mediation. Similarly, *the Family Code* mandates that the court must take into account the child's views in decisions concerning parental rights and responsibilities⁶⁷ referring to the Child Protection Act, but .

Furthermore, *the Mediation Act* does not specifically address the involvement of children in the mediation process, and as a result, the age limit for child participation in mediation is typically aligned with the Child Protection Act, which sets the threshold at 10 years of age.

⁶² UNCRC, Article 12(1).

⁶³ Article 24(1).

⁶⁴ Article 21 & Article 26 Regulation 2019/1111.

⁶⁵ Article 15(1) of the CPA.

⁶⁶ Ibid, Article 15(2).

⁶⁷ Article 59(6) of the Family Code.

2.2.2 Domestic and Gender-Based Violence

Domestic violence frequently plays a critical role in international child abduction cases, with many parents crossing borders to escape abusive situations⁶⁸. There are various complexities of international child abduction cases involving domestic violence with some related to the legal framework governing the safe return of the child and other concerning the role of mediation in such cases. For instance, while Article 13(1)(b) of the 1980 Hague Convention allows courts to refuse the return of a child if there is a grave risk of physical or psychological harm, it focuses exclusively on risks to the child and does not consider the safety of the abducting parent⁶⁹. Since the Convention does not explicitly address domestic violence, Article 13(1)(b) remains the main legal basis for courts to weigh such risks.

The debate around the Convention highlights the tension between its goal of promptly returning abducted children and the realities of domestic abuse that force parents to flee. The 2020 Guide to Good Practice⁷⁰ attempted to clarify this but faced criticism for implying that domestic violence alone may not justify refusing return, potentially weakening protections for affected children⁷¹.

Meanwhile, mediation, although beneficial in many family law disputes, including international child abductions, is often restricted or prohibited in cases involving domestic and gender-based violence due to concerns about power imbalances and safety, further complicating efforts to resolve disputes amicably. International and regional frameworks increasingly acknowledge this danger. For instance, the *Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence* (Istanbul Convention)⁷² prohibits the use of mandatory alternative dispute resolution mechanisms in such cases⁷³. Similarly, EU instruments such as the *Brussels II-ter Regulation* permit courts to refuse mediation when it would not be appropriate due to the

⁶⁸ Marilyn Freeman and Nicola Taylor, *Where International Child Abduction Occurs Against a Background of Violence and/or Abuse* (The International Centre for Family Law Policy and Practice April 2024), p.15, available at:

⁶⁹ Ibid.

⁷⁰ Guide to Good Practice under the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction, Part VI, Article 13(1)(b) (HCCH, The Hague, 2020), available at: <https://assets.hcch.net/docs/225b44d3-5c6b-4a14-8f5b-57cb370c497f.pdf>.

⁷¹ Marilyn Freeman and Nicola Taylor, *Where International Child Abduction Occurs Against a Background of Violence and/or Abuse* (The International Centre for Family Law Policy and Practice April 2024), p.4.

⁷² Council of Europe (2011). Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, Istanbul, 11 May 2011, CETS No. 210.

⁷³ Ibid, art. 48.

presence of domestic violence⁷⁴. These provisions reflect a growing consensus that mediation may be unsuitable and potentially harmful where abuse is present. However, no such provisions have been established in the newly adopted EU Directive 2024/1385⁷⁵ on combating violence against women and domestic violence.

This concern is also echoed in national legislation, such as Bulgaria's Law on Protection Against Domestic Violence⁷⁶, which prohibits the court from encouraging mediation or settlement in cases of domestic violence⁷⁷. However, the law does not explicitly prohibit the use of mediation in such cases. Its use is permitted only under strict conditions - namely, when both parties explicitly agree to it, when the violence has not prevented either party from freely expressing their will, and when adequate safeguards are in place to protect their rights and freedom of choice (including those of their children), such as the involvement of lawyers, psychologists, child protection professionals, or trusted individuals⁷⁸. The proposed amendments to the mediation framework, which sought to introduce mandatory mediation, but were subsequently declared unconstitutional, included an exception stipulating that where there is compelling evidence of domestic violence, an initial mandatory mediation session should not be conducted⁷⁹. Following the annulment of these amendments, there remains an absence of a clear legislative framework governing the application of mediation in cases involving indications of domestic violence.

2.2.3 Recommendations for Strengthening the National Legal Framework

As mentioned, the legal framework governing national family mediation in Bulgaria also extends to international family mediation. However, the direct application of these domestic rules to cross-border cases fails to adequately

⁷⁴ Recital 43.

⁷⁵ Directive (EU) 2024/1385 of the European Parliament and of the Council of 14 May 2024 on combating violence against women and domestic violence PE/33/2024/REV/1 OJ L, 2024/1385, 24.5.2024, ELI: <http://data.europa.eu/eli/dir/2024/1385/oj>

⁷⁶ Law on Protection Against Domestic Violence (Promulgated SG No. 102/2009, effective 22 December 2009).

⁷⁷ Ibid, Article 15(1).

⁷⁸ Sporazumenia, 'Медиация при развод и домашно насилие – кога да, кога не', available at: <https://www.sporazumenia.com/post/медиация-при-развод-и-домашно-насилие-кога-да-кога-не-1>

⁷⁹ Article 140a (4) of the CPC.

address their distinct challenges. In order to improve this, a targeted and thoughtful reform is required.

2.2.3.1 Mandatory training for family mediation in the Mediation Act

As noted above, the issue of adequate training in Bulgaria affects both international and domestic family mediation, as there is currently no mandatory requirement for mediators to specialise after completing the general mediation course. Therefore, before addressing proper training for international family mediation, it is necessary first to introduce mandatory specialisation in family mediation in general. This legal reform should explicitly include international family mediation within the curriculum, given the legal complexity and sensitivity of cross-border family disputes - particularly those involving children, who are considered a vulnerable group. Cases such as international child abduction, cross-jurisdictional custody conflicts, and the enforcement of multinational family agreements require mediators to have specific knowledge of international legal instruments (e.g., the Brussels II-ter Regulation and the 1980 Hague Convention), as well as a high level of intercultural competence, child-sensitive communication skills, and the ability to manage emotionally charged dynamics. EU guidance, including the Council of Europe's Guidelines on Child-Friendly Justice⁸⁰ and various recommendations by the European Commission, underscore the importance of specialised training for professionals working in contexts where children's rights and well-being are at stake. As such, integrating these standards into the training framework is essential to ensure that mediators are adequately prepared to handle the unique challenges posed by international family disputes, especially those involving children.

2.2.3.2 Formal referral of mediation in accordance with the Brussels II-ter (in the MA)

In line with Article 25 of *Brussels II-ter*⁸¹, Bulgarian legislation, specifically the *Mediation Act*, should explicitly provide for mandatory judicial referral to mediation in cross-border parental responsibility cases. Incorporating such referral mechanisms into the *Mediation Act* would promote greater use of mediation in international child custody disputes, particularly where cooperation with foreign central authorities is required. This would align national law with

⁸⁰ Council of Europe, Guidelines of the Committee of Ministers of the Council of Europe on Child-Friendly Justice, available at: <https://www.coe.int/en/web/children/child-friendly-justice>

⁸¹ Art. 25 Regulation 2019/1111

EU standards and help operationalise the principles of cooperation, mutual trust, and the best interests of the child.

3 International Family Mediation in Bulgaria: The Practice

While Bulgaria has taken important steps to integrate mediation into its legal system, findings from the national questionnaire reveal that the number of IFM in international child abduction cases remains low due to a number of structural and practical challenges hindering its effective implementation in practice. This section, based on responses from the national questionnaire and desk research, provides an overview of how IFM operates in Bulgaria. It outlines existing practices and key challenges and offers recommendations for addressing these issues and enhancing the effectiveness of IFM.

3.1 Overview of National Questionnaires' Responses

One of the core issues highlighted in the survey is the lack of trained mediators specialised in cross-border family disputes, as well as the absence of training on how to include and work with children in the mediation process - an essential component of child-sensitive dispute resolution. Furthermore, in Bulgaria, public funding for IFM is also unavailable, which poses an additional barrier for families already burdened by the financial costs of international litigation. Moreover, there are no clear institutional mechanisms or formal protocols for cooperation between the Central Authority, courts, and mediation organisations, leading to poor coordination and limited referrals to mediation in relevant cases.

In addition to these systemic obstacles, awareness of IFM remains low among key stakeholders, including legal professionals, judges, and social workers, as well as the general public. Many parents involved in cross-border family disputes are not informed about mediation as an option and often default to adversarial legal proceedings, particularly in emotionally charged cases such as international child abduction. Respondents to the national questionnaire also emphasised that cultural sensitivity - crucial for the success of international mediation, is entirely absent from existing mediator training programmes in Bulgaria, thus limiting the ability of mediators to manage diverse and complex family dynamics effectively.

Finally, the lack of official data or evaluation reports on the outcomes and effectiveness of IFM further undermines its credibility and limits opportunities for evidence-based policy development. Without reliable statistics or feedback mechanisms, it is difficult to demonstrate the value of mediation, assess its

success rates, or advocate for the reforms needed to improve its use in cross-border family disputes.

3.2 Key Actors and Available Services

3.2.1 Public vs. Private Mediation Services

The landscape of international family mediation in Bulgaria involves a range of actors across both the public and private sectors, although the availability and specialisation of services remain limited, particularly in cross-border cases. In the public sector, courts play a central role in promoting mediation by referring parties to recognised mediation centres, especially in family disputes involving custody, visitation, or child support. However, as mentioned above, referrals to mediation by the courts are not mandatory and depend largely on the discretion of individual judges. Additionally, while court-connected mediation centres exist, they are generally limited to handling domestic cases. Furthermore, there are conflicting opinions in Bulgaria on the active involvement of the Central Authority in encouraging and referring parties to mediation. While some experts argue that the Central Authority plays an active role in assisting and promoting mediation services, others view its function as primarily administrative in nature.

The private sector, by contrast, has been more proactive in developing mediation services, particularly through the efforts of non-governmental organisations, private mediation centres, and legal professionals who specialise in family law. These actors often offer more tailored services, including bilingual mediators and procedures designed to accommodate the cross-border nature of international family conflicts.

One example is the International Social Service Bulgaria (ISS Bulgaria)⁸², which forms part of the global ISS network. The organisation supports families involved in complex international child and family protection cases and offers specialised services that directly contribute to international family mediation. These include cross-border mediation, preparation of social reports for court proceedings, and coordination with foreign social services and legal authorities. ISS Bulgaria also acts as an intermediary in cases where cooperation is required between Bulgarian and foreign institutions. However, despite its wide range of specialised services related to IFM, ISS Bulgaria has not yet handled any international child abduction cases.

⁸² Social Service Bulgaria (ISS Bulgaria), available at: <https://www.iss-bg.org/bg/home/>

3.3 Training and Qualifications for IFM in Bulgaria

As discussed in Section 2.2.1.1 above, the lack of specific training requirements in the legal framework results in inconsistencies in the practice of international family mediation, as well as a general lack of awareness regarding this specialised field. The analysed questionnaires confirm that mediators working on cross-border family disputes are often expected to demonstrate higher levels of competence than those required for domestic cases, however, training in this area remains entirely voluntary. Hence, any person having completed the required basic 60-hour mediation training in the country is eligible to undertake international family mediations without supervision or limitations.

Although some specialised training in international family mediation is available in Bulgaria, such as previous initiatives by the National Institute of Justice⁸³ and an ongoing online course by the ITERA Institute⁸⁴ that addresses issues like cross-border disputes and child abduction under the Hague Convention, such options remain limited in scope and availability. Consequently, mediators who wish to acquire the necessary expertise in this field often resort to international training programs, which are typically less accessible due to factors such as cost, language barriers, and limited availability of places.

3.4 Recognition and enforcement of mediation agreements

In Bulgaria, the recognition and enforcement of mediation agreements is primarily governed by the Mediation Act, which explicitly includes cross-border disputes. As discussed in Section 2.2.1, a dispute is considered cross-border when at least one party is domiciled or habitually resident in another EU Member State at the time of the mediation agreement. However, this framework applies only within the EU. For international family mediation involving non-EU countries, the situation is more complex, as national courts cannot rely on EU instruments to recognise and enforce mediated settlements.

The enforcement of such agreements in non-EU contexts largely depends on the existence of bilateral or multilateral treaties between the countries involved. The 1980 Hague Convention,⁸⁵ while central to addressing cross-border child

⁸³ National Institute of Justice (NIJ), "In-person language training of ERA on family mediation," available at: <https://nij.bg/новини/присъствено-езиково-обучение-на-ера-по-семејна-медиация-10289>.

⁸⁴ Itera Institute, "Advanced training in family mediation," available at: <https://itera.bg/courses/1680-2/>.

⁸⁵ Supra note 5.

abduction and protecting custody and access rights, does not provide a direct mechanism for the enforcement of mediation agreements. Its focus is on the prompt return of wrongfully removed children and the protection of parental rights, not on the recognition of settlements reached through mediation. This gap highlights the need for Bulgaria to enter into more bilateral agreements to ensure that outcomes of international family mediation are legally recognised and enforceable beyond the EU framework.

As for the enforcement procedure set out in the Mediation Act, once a settlement is reached, it must be in writing and signed by all parties⁸⁶. For such an agreement to become enforceable, it must be submitted to a Bulgarian court for approval. The court examines whether the content of the agreement complies with Bulgarian law and with the principles of public order. Once approved, the agreement is recognised as a court settlement and is enforceable in the same manner as a court judgment⁸⁷. This allows parties to request enforcement through a bailiff if necessary.

In cases that involve children, the court should only approve a mediation agreement if it fully respects the best interests of the child.⁸⁸ Although not explicitly stated, this principle is indirectly reflected in Article 18(3) of the Mediation Act, which provides that: *"The court shall approve the agreement after it has been confirmed by the parties, provided that it does not contradict the law and good morals."* This general clause implies that agreements contrary to the child's best interests and therefore being inconsistent with legal norms or ethical standards, should not be approved. In practice, however, due to the limited participation of children in family mediation and the inconsistent approach among courts in assessing what constitutes the child's best interests, it remains unclear how effectively this standard is applied.

3.5 Ethical and Professional Standards for IFM

Although Bulgaria does not have a single, unified code of conduct for mediators, ethical and professional standards are formally upheld through a combination of national legislation and soft law instruments. Certified mediators are bound by the mandatory ethical rules set out in Ordinance No. 2 of 2007, which establishes core principles such as neutrality, confidentiality, and impartiality⁸⁹. In addition, various professional mediation associations in Bulgaria have

⁸⁶ Art. 16(1) Mediation Act

⁸⁷ Ibid, Art. 18.

⁸⁸ Ibid, Article 18(3).

⁸⁹ Art. 30 Ordinance No. 2 of 2007

adopted their own codes of conduct, generally based on Ordinance No. 2 and aligned with the European Code of Conduct for Mediators⁹⁰ - a voluntary, non-binding instrument that provides ethical guidance aligned with EU values.

However, although these association codes reinforce essential ethical standards and encourage consistency among mediators, their provisions remain general and are not specifically tailored to address the complexities of cross-border family disputes. The current ethical framework, both statutory and voluntary, lacks specific guidance on several essential aspects of international family mediation. These include the role of the child in mediation, safeguards in cases involving domestic or gender-based violence, and standards for mediator competence in cross-cultural or multilingual settings. The absence of enforceable, context-specific ethical standards in these areas represents a significant gap, particularly given the vulnerable position of children in cross-border disputes. A more robust and harmonised framework, incorporating binding standards for IFM and specific provisions for child protection and participation, would strengthen both the quality and legitimacy of mediation outcomes in such cases.

3.6 Child Participation in IFM

Despite the legal protection of children's right to be heard and have their best interests duly considered, child participation in family mediation in Bulgaria is still rare and marked by a lack of clear, consistent practice, as reported by the experts who participated in the national questionnaire. Mediators generally express hesitation about involving children directly, citing concerns about adding emotional stress to an already difficult situation and acknowledging their own limited training in working with children. Mediators in Bulgaria generally avoid individual sessions with children, with some using indirect methods to reflect the child's views in the process - through the support of psychologists. A few mediators noted that even when the child's involvement is considered, there are no shared standards for how to approach them, what information to provide, or how to balance their voice with the overall mediation process.

Furthermore, although the law requires that children over the age of 10 are heard in court proceedings and allows for younger children to be heard at a judge's discretion⁹¹, there are no equivalent guidelines when it comes to mediation. In practice, this legal framework is sometimes used by analogy, but

⁹⁰ European Commission, *European Code of Conduct for Mediators* (EU Justice Portal, July 2004, updated 2020), available at: https://e-justice.europa.eu/sites/default/files/2020-12/Code_of_conduct_EU_EN.pdf.

⁹¹ Supra note 65 & 66.

child participation in mediation remains more an exception than a rule. Institutions such as the Centre for Conciliation and Mediation at the Sofia District and City Courts do not actively support the involvement of children. Therefore, the feedback from mediators' points to an urgent need for clearer regulations, accessible training, and shared standards to support meaningful and safe child participation in mediation when appropriate.

To fill these gaps, the National Network for Children in Bulgaria, in collaboration with the Professional Association of Mediators in Bulgaria, the Institute for Social Activities and Practices, the Parents Association, and the "For Our Children" Foundation, developed and published a Unified Methodology for Assessing the Best Interests of the Child⁹². The methodology is targeted at judges, lawyers, and mediators, providing approaches for examining and evaluating the best interests of children in cases of parental conflict. A key part of the methodology is a standardised model for interviewing children, which is used as part of the process for resolving parental disputes⁹³.

The methodology highlights the importance of child participation in the mediation process, stressing the fact that in Bulgaria this is an exception⁹⁴. It discusses the consequences of decisions based only on the information provided by the parents who are often unable to rationalise their emotions during this process. On the other hand, the Methodology highlights the psychological burden placed on children when their views are sought in divorce proceedings. While recognising the importance of hearing the child's voice, the methodology underscores the risk of placing excessive weight on the child's opinion in matters where they are emotionally bonded to both parents. When asked to express a preference, the child may feel compelled to choose between two people to whom they are naturally attached, which can create a conflict of loyalty. This internal conflict, where a child feels guilty or disloyal for expressing preference for one parent over the other, can lead to significant emotional distress and even trauma. This raises critical concerns about respecting the child's emotional well-being and fundamental rights, emphasising that participation must be carefully balanced with protection from harmful psychological pressure⁹⁵.

⁹² "Unified Methodology for Assessing the Best Interests of the Child", January 2020, available at: <https://nmd.bg/wp-content/uploads/2020/01/Методология-за-обследване-най-добрия-интерес-на-децето.pdf>.

⁹³ Ibid.

⁹⁴ Ibid, p.49.

⁹⁵ Ibid, p. 72.

Furthermore, in 2021, the Supreme Court of Cassation provided clarifications⁹⁶ on what should be considered when determining the best interests of children. In making decisions about which parent should exercise parental rights over minor children and the regime of personal relationships with the other parent, the court evaluates the best interests of the child by comparing the conditions provided by both parents, based on the criteria outlined in Article 59(4) of the Family Code and the Additional Provisions of the Child Protection Act⁹⁷, as well as the clarifications in Supreme Court Plenary Decision No. 1/1974⁹⁸, which remain relevant under the current Family Code.

3.7 Recommendations

3.7.1 Mandatory family mediation training

In addition to introducing a legislative reform for additional mandatory training for family mediators after the completion of the 60-hour-course, training in practice should include:

- Development of a unified national course for mediators specialising in family mediation, incorporating international family mediation and addressing key issues such as international child abduction.
- Establishment of unified ethical standards for both national and international family mediation, focused on the best interests of the child and providing clear guidelines for working with children in mediation settings.
- Expansion of multilingual training programs to support effective cross-border communication between parties.
- Specialised training for mediators in child-inclusive practices, enabling them to engage appropriately and effectively with children involved in mediation processes.

3.7.2 Public awareness and accessibility

Since there is a lack of awareness among both professionals and the general public, as mentioned above, it is essential to implement targeted information campaigns, public outreach initiatives, and accessible resources on international family mediation. These efforts should focus on promoting a better understanding of international family mediation, its benefits in cross-border disputes, and the mechanisms available for accessing such services. Increasing

⁹⁶ Решение № 60208 от 03.12.2021 г. по гр. д. № 3523/2020 г., IV гр. о., ГК на ВКС

⁹⁷ § 1(5) Child Protection Act.

⁹⁸ Supreme Court Plenary Decision No. 1/1974

awareness is a critical step toward encouraging wider use of IFM and ensuring that it is seen as a viable, effective alternative to litigation in international family conflicts.

3.7.3 Up to date national statistics on international family mediation

National statistics on international family mediation should be systematically maintained and regularly updated to support informed policymaking and track progress in the field. This includes collecting data on the number and types of cases, mediation outcomes, timelines, the use of child-inclusive practices, and the prevalence of online and multilingual mediation.

4 Pre-mediation Services in *Bulgaria*

Although the concept of pre-mediation is gaining currency in European and international practice, in the Bulgarian context it remains undefined and inconsistently understood. Expert responses gathered through the national questionnaire confirm that no formally recognised or legally codified stage termed pre-mediation exists within the Bulgarian family-mediation process. This absence of definition gives rise to varied interpretations and practices.

While some professionals state unequivocally that pre-mediation is absent from the national framework, others describe the first information session, where families are introduced to the principles and procedures of mediation, as a functional equivalent of pre-mediation, even if it is not labelled as such. In addition, voluntary services offered by NGOs prior to any formal referral are occasionally said to fulfil a similar preparatory role. Yet these services are not standardised, not universally available, and lack legal status. Their quality, content and accessibility vary considerably according to the organisation or professionals delivering them. Consequently, although elements resembling pre-mediation are present in practice, they occur in a fragmented and informal manner.

The absence of a shared understanding or legal foundation for pre-mediation creates several difficulties. It hampers the assurance of consistent service quality, the development of unified professional training, and the systematic monitoring and evaluation of this early stage. Several respondents therefore emphasised the need for a clear and operational definition of pre-mediation, observing that the current gap impedes the coherent development of family-mediation practice. This observation aligns closely with one of the core aims of the iCare2 project: to clarify and reinforce the role of pre-mediation within the broader mediation framework.