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iCare2

National Report for France

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Introduction

For the past twenty years, and even more so since the early 2020s, mediation has been strongly encouraged in France by the Ministry of Justice. This proactive policy is reflected in an apparently solid legal framework, including in family matters. Family mediation, as defined by the former *Conseil consultatif de la médiation familiale*[1] in 2002, refers to "a process for building or rebuilding the family bond, based on the autonomy and responsibility of the people involved in situations of break-up or separation, in which an impartial, independent, qualified third party with no decision-making power, the family mediator, helps them to communicate and manage their conflict in the family sphere, in all its diversity and evolution, through the organisation of confidential meeting "[2].

While this framework may have appeared sufficiently robust for France to be cited by the European Commission for its actions in the field of cross-border family mediation[3], we must remain lucid. The results are far from satisfactory.

First of all, while French law regulates mediation, including family mediation, in some detail, there are no specific provisions for cross-border family mediation. The question of adapting the legal system to the specificities of cross-border family mediation must therefore be raised. Secondly, practice seems to be much less keen on mediation than the country's political authorities are: in family matters at least, feedback from the judiciary is reserved, if not hostile. Finally, the effectiveness of the legal provisions and public policies deployed to encourage mediation is virtually impossible to assess. Indeed, this is an important observation to make at the outset: the judicial players met by the authors of this Report, in particular institutional players and magistrates, stressed the cruel lack of statistical tools to accurately assess the use of mediation in France, including in a judicial context, and the results of such use.

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[1] Created by *Arrêté du 8 octobre 2001 portant création du Conseil national consultatif de la médiation familiale*.

[2] M. Savourey, « La médiation familiale », *Journal du droit des jeunes*, 2007/8, n° 268, p. 15.

[3] Report of the Commission on the application of Council Regulation (EC) No 2201/2003 concerning jurisdiction and the recognition and enforcement of judgements in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000, 15 April 2014, COM (2014) 255 final. See also : F. Monéger, "Article 25. Modes alternatifs de règlement des différends », in S. Corneloup, E . Gallant, V. Egéa, F. Jault-Seseke (dir.), *Divorce, responsabilité parentale, enlèvement international. Commentaire du règlement 2019/111 du 25 juin 2019 (Bruxelles II* ter*)*, Bruylant, 2023, p. 343, at p. 345.

Since 2025, the "Winci TJ" tool has been recording orders to meet with a mediator. But there are no statistics on the appointment of mediators, on any mediation agreements reached and approved, and even less on their enforcement. Statistics do exist on the discontinuation of proceedings, but they do not specify the cause of discontinuance, so they cannot be used to determine whether discontinuance may be the result of an out-of-court settlement, in mediation. The inadequacy, or even obsolescence, of the tools used by the courts is regularly pointed out.

Almost by contrast, the number of international parental abductions is fairly well documented: in its 2024 Report on the disappearance of minors in France, the "116000 Enfants disparus" service notes that the number of reported abductions remains stable, with 665 reports made, after a marked increase between 2022 and 2023 (+21.5%). The majority of these abductions concern very young children[4], in 50 countries on five continents. The same report notes that only 19% of the cases handled by the service are resolved by the courts, and 12% by amicable agreement. The very respectable results of amicable settlements are noted, while very few parents resort to mediation processes.

This report therefore sets out to present the legal framework for international family mediation in France (I), and to compare it with actual practice, which shows that it has not been sufficiently adopted in practice (II).

I- International family mediation in France: The legal framework

As a result of the proactive policy pursued by the French Ministry of Justice over the last few years and enshrined in a recent *Circulaire de politique civile*,[5] France now has a solid legal framework for mediation, including family mediation (1). Nevertheless, there are no specific provisions for international family mediation: the specific features of international family mediation are not taken into account, and the mechanisms that can be called upon are not really articulated with the procedural rules set out for international abductions (2).

[4] About 49% of children abducted by a parent in 2024 were under 5 years old.

[5] *Circulaire de politique civile*, June 27, 2025, JUSC2518302C, CIV/06/2025: The first of its kind (general policy circulars had previously been reserved for criminal matters), this circular aims to establish "a structured and clear civil policy based on two complementary levels," one national, led by the Ministry of Justice, and the other local, led by the heads of courts. This circular defines five "national ministerial priorities," the first of which is "public policy on amicable settlements."

1. An institutional and regulatory context favorable to family mediation

In France, the Ministry of Justice has pushed legislative and regulatory initiatives to convince parties to use mediation, and to encourage judges to "order" mediation. Testifying to this interest, a national body, le **Conseil national de la Médiation**, placed alongside the Minister of Justice, was created in 2021 by the *loi n° 2021-1729 du 22 décembre 2021 pour la confiance dans l'institution judiciaire* (art. 45). This administrative body, tasked with issuing opinions, proposals and recommendations in the field of mediation, delivered its first progress report for the period June 2023 - November 2024 in February 2025[6].

The legal framework is constantly evolving with a view to improvement: A **new decree[7], accompanied by its explanatory circular[8], was adopted on July 18, 2025**, with the aim of making the provisions relating to amicable settlements more accessible by grouping them together in a single book of the Code of Civil Procedure[9] and of remedying, at least in part, the shortcomings identified in the previous regulations. Unless otherwise specified, the articles of the Code of Civil Procedure (CPC) cited in this Report are those resulting from the recasting of Book V by the decree of July 18, 2025. These texts are applicable as of September 1, 2025, including to proceedings already in progress.

Family mediation is a well-regulated practice (1), complemented by other amicable arrangements that have met with some success (2).

1.1. Family Mediation, a well-regulated practice

Mediation is defined in French law as "*any structured process, whatever its name, by which two or more parties attempt to reach an agreement for the amicable resolution of their disputes, with the help of a third party, the mediator, chosen by them or designated, with their agreement, by the judge hearing the*

[6] https://www.justice.gouv.fr/documentation/ressources/rapport-detape-du-conseil-national-mediation

[7] Décret n°2025-660 du 18 juillet 2025 portant réforme de l'instruction conventionnelle et recodification des modes amiables de résolution des différends.

[8] Circulaire de présentation du décret portant réforme de l'instruction conventionnelle et recodification des modes amiables de règlement des différends, JUSC2520914C, CIV/08/2025.

[9] As of Sept. 1, 2025, Decree No. 2025-660 of July 18, 2025, consolidates in a single book (Livre V) of the Code of Civil Procedure all the rules relating to amicable dispute resolution methods (Art. 1528 et seq. of the CPC).

dispute"[10] (article 21, loi n° 95-125 du 8 février 1995). The new provisions of the Code of Civil Procedure, resulting from Decree No. 2025-660 of July 18, 2025, establish a similar definition.[11] Family mediation, on the other hand, has no legal definition, although the definition proposed by the former *Conseil national consultatif de la médiation familiale* (National Advisory Council on Family Mediation), referred to in the introduction, is regularly put forward in public institutional communications.

Mediation can be judicial or conventional. Mediation is said to be judicial whenever it is initiated and/or assisted by a judge, in the context of legal proceedings that have already been initiated, and at any stage of the proceedings. It is referred to as conventional when it is initiated by the parties without the active participation of a judge, including during legal proceedings (CPC, Art. 1536). In both cases, it is crucial that the parties, and their lawyers if they are accompanied by counsel, are familiar with the practice of mediation.

Extrajudicial or conventional family mediation is governed by articles 1536 et seq. of the *Code de procédure civile* (hereinafter "CPC"), which are not provisions specific to family matters, but are nonetheless applicable to them.

Judicial family mediation, on the other hand, is subject to certain specific provisions . These specific provisions were adopted mainly to allow recourse to judicial mediation in family matters (a), while the rules governing this type of mediation are mainly those of ordinary law, with certain exceptions (b).

a) Recourse to judicial family mediation

Article 1528-2 CPC, which constitutes a "general provision" applicable to any amicable settlement of a dispute, establishes as a rule of principle that "subject to the provisions of the first paragraph of Article 2067 of the Civil Code, the agreement reached by the parties may only relate to rights over which they have free disposal." However, in French law, the concept of "rights over which the parties have free disposal" ("*droits disponibles*" hereinafter translated as

[10] Official French version : *"tout processus structuré, quelle qu'en soit la dénomination, par lequel deux ou plusieurs parties tentent de parvenir à un accord en vue de la résolution amiable de leurs différends, avec l'aide d'un tiers, le médiateur, choisi par elles ou désigné, avec leur accord, par le juge saisi du litige ».*

[11] Article 1530 states that "Conciliation and mediation governed by this title refer to any structured process whereby several persons attempt, with the assistance of a third party, to reach an agreement intended to resolve the dispute between them," with Article 1530-1 specifying that "Conciliation is conducted by a judge or a conciliator, who is a voluntary third party," while Article 1530-2 specifies that "Mediation is conducted by a mediator, who is in principle a paid third party and may not be a judge or a conciliator."

"available rights") is far from clear. This is particularly the case in family matters, where it is becoming increasingly difficult to distinguish between rights over which the parties have free disposal – in principle, property rights – and rights that are not available – among which, those affecting the status of persons. For instance, the separation of spouses including in its non-property aspects, tends to be gradually treated as part of alienable rights, even if it has an impact on the status of persons.

It is therefore particularly useful for the regulatory framework to specify, in family matters, what can be subject to mediation.

Generally speaking, article 1071 CPC (paragraphs 1 and 2) states that, in family proceedings, "*The family judge's mission is to attempt to reconcile the parties. When a dispute is referred to him, he may propose a mediation measure and, after obtaining the agreement of the parties, appoint a family mediator to carry it out*"[12].

More specifically, mediation may be proposed by the family judge in *divorce proceedings*, as a provisional measure (C. civ. Art. Art. 255, since law n° 2004-439 of May 26, 2004).

It is also provided for in matters concerning the *exercise of parental authority* (C. civ., art. 373-2-10, as of law n° 2002-305). In this area, Law n° 2019-222 of March 23, 2019 introduced post-sentence mediation: "the judge may propose a mediation measure [...] including in the final decision on the terms of exercise of parental authority"[13] (C. civ., art. 373-2-10, para. 2). This type of mediation should be encouraged, as the judge's role is not to go into the details of the family's day-to-day life. It would be particularly useful, as we shall come back to, in cases where both parents do not live in the same country.

Since Law no. 2022-140 of February 7, 2022, mediation can also be proposed by the children's judge as part of an *educational assistance procedure* (C. civ. Art. 375-4-1) (on which see below).

In order to implement Article 48 of the Istanbul Convention, these various texts exclude any recourse to judicial mediation when violence against the other parent or the child is alleged by one of the parents, or in cases of manifest control

[12] Original French version : « Le juge aux affaires familiales a pour mission de tenter de concilier les parties. Saisi d'un litige, il peut proposer une mesure de médiation et, après avoir recueilli l'accord des parties, désigner un médiateur familial pour y procéder ».

[13] Original French version : « « le juge peut proposer une mesure de médiation [...] y compris dans la décision statuant définitivement sur les modalités d'exercice de l'autorité parentale ».

within the couple. The addition of the expression "manifest control" (« *emprise manifeste* ») by Law no. 2020-936 of July 30, 2020 aimed at protecting victims of domestic violence is the subject of debate[14]. The legislator did not define the notion, in order to leave the judge greater freedom of appreciation, but this term, which comes from the vocabulary of psychology, is difficult to define by the judge, who tends to prefer it to that of *coercive control* (in French : "contrôle coercitif") [15].

For a number of years, a mechanism of mandatory mediation attempt prior to referral to the judge (en French, "***tentative de médiation préalable obligatoire***" also known by the acronym "TMFPO") was experimeted in certain pilot jurisdictions (Loi n° 2016-1547 du 18 nov. 2016 de modernisation de la justice du XXIe siècle); it excluded from its scope, like the provisions mentioned above, situations of violence "committed" against the other parent or the children. It was stipulated that, subject to inadmissibility of the claim, which the judge could raise ex officio, the parent(s) had to try to resolve their dispute through family mediation before bringing the case before the judge. The results of this experiment were mixed. One report concludes that TMFPO produces "a paradoxical diversion from the courts: it increases the time taken to settle disputes for most litigants, without necessarily helping them to reach agreement or increase their sense of justice" [16]. In fact, few TMFPOs actually led to mediation. The experiment was terminated on December 31, 2024.

b) Rules governing judicial family mediation

With the exception of special provisions for child protection (ii), the organisation of judicial family mediation is governed by articles 1530 and seq. of the CPC,

[14] See : A. DARSONVILLE, Comment décrire un processus d'assujettissement? *Libération*, fév. 2020. https://www.liberation.fr/debats/2020/02/04/comment-decrire-un-processus-d-assujettissement_1777182

[15] Court of Appeal, Poitiers, ch. corr., 31 Jan. 2024, 5 decisions ; Y. Mayaud, « « Contrôle coercitif » et expérimentation d'une « chambre des violences intrafamiliales » à la cour d'appel de Poitiers », *Revue de science criminelle et de droit pénal comparé*, 2024, vol. 4, p. 819-820 ; O. Mahuzier, « Regard pratique sur la définition du contrôle coercitif en droit pénal », *JCP* G, n° 13, p. 593-599 ; See also the law proposal « Proposition de loi n° 669 du 3 décembre 2024 visant à renforcer la lutte contre les violences faites aux femmes et aux enfants » (art. 3).

[16] In French : la TMFPO produit « une déjudiciarisation paradoxale : elle augmente les délais de règlement des litiges pour la plupart des justiciables, sans les avoir nécessairement aidés à se mettre d'accord ou à augmenter leur sentiment de justice ». in V. Boussard, *L'évaluation de la tentative de médiation familiale préalable obligatoire (TMFPO). Quand médier n'est pas remédier*, Research Report, IERDJ, 2020.

dedicated to mediation and conciliation, which constitute a kind of common law regime (i).

i) Common law regime for judicial family mediation

The current rules of the CPC - which were largely amended firstly by Decree no. 2022-245 of Feb. 25, 2022 (decree issued in application of the law of December 22, 2021 "pour la confiance dans l'institution judiciaire"), secondly by Decree no. 2025-660 of July 18, 2025 - are designed to promote the use of judicial mediation and secure mediation agreements.

In France, although certain provisions seems to provide for the possibility of the judge "ordering" mediation (see CPC, art. 1534), **mediation is never compulsory**. In any event, the parties' agreement is essential[17]. Neither the judge nor the lawyer can force them to resort to mediation.

On the other hand, **information on mediation can be imposed**: the judge may, and at any time during the proceedings, order the parties to meet with a mediator appointed by him or her, who will provide information on mediation[18]. This **injunction to meet with a mediator**, which is a measure of judicial administration, was enshrined in law no. 2019-222 of March 23, 2019 (CPC, art. 1533). In practice, the use of this measure depends on each judge's interest in mediation. Practice varies from one judge to another, from one tribunal to another, from one court to another. Moreover, it would appear that some parties are reluctant to submit to mediation. This is why Decree No. 2025-660 of July 18, 2025 established a specific penalty applicable to parties that fail to comply with an order to appear before a mediator: Article 1533-3 of the CPC now provides that the mediator must inform the judge of the absence of a party from the information meeting, which may then, unless the absence is justified by a legitimate reason, be ordered to pay a civil fine of up to €10,000.

If the parties agree to submit to mediation, the judge may then, at any stage of the proceedings and "even in summary proceedings," issue a **decision ordering mediation** (Art. 1534, CPC). This decision, which is a judicial administrative measure (Art. 1534-5 CPC) whose mandatory provisions are specified in Art. 1534-1 CPC, appoints the mediator and defines his or her mission. The

[17] Art. 131-1, CPC : « le juge saisi d'un litige peut, *après avoir recueilli l'accord des parties*, ordonner une médiation ».

[18] Art. 127-1, al. 1 CPC : « A défaut d'avoir recueilli l'accord des parties prévu à l'article 131-1, le juge peut leur enjoindre de rencontrer, dans un délai qu'il détermine, un médiateur chargé de les informer de l'objet et du déroulement d'une mesure de médiation. Cette décision est une mesure d'administration judiciaire ».

provisions specific to judicial mediation do not mention the possibility of resorting to **co-mediation**, although this is permitted by the provisions applicable to conventional mediation (CPC, Art. 1536-1) and used in practice. However, the decree of July 18, 2025 now formalizes a practice that some judges had instituted[19], known as **"double-trigger orders"** ("*ordonnances à double détente*"): the judge may, by the same decision, both order the parties to meet with a mediator for information purposes and order mediation, in the event that the parties agree to this measure with the mediator responsible for informing them (CPC, Art. 1533, para. 3). The parties' agreement must then be obtained within one month of the decision, failing which the decision shall lapse (CPC, Art. 1534-1, para. 2).

Mediation does not relieve the judge of jurisdiction (CPC, Art. 1535-3), but it suspends the limitation period for the proceedings for as long as it lasts (CPC, Art. 1534, para. 3). The initial duration of the mediation mission, set by the judge, was extended by the decree of July 18, 2025: it may not now exceed five months (compared with three months, renewable once for the same period, before the adoption of this text), and may be renewed once for a period of three months at the request of the mediator (CPC, Art. 1534-4). This extension of the duration of mediation has been welcomed by specialists, who considered the previous time limits to be too short for complex cases. It has been suggested that it would be even more appropriate to allow the judge to freely assess the duration of the mediation he orders[20].

Unlike judicial conciliation, judicial mediation is not free of charge. The mediator is entitled to remuneration, which is set by mutual agreement between the parties or, in the absence of agreement, by the judge (CPC, Art. 1535-6). The decision ordering mediation sets the amount of the advance payment to be made to the mediator, which must be "set at a level as close as possible to the foreseeable remuneration" (Art. 1534-3, para. 1 CPC). Failure to pay the full amount of the advance payment within the prescribed period renders the mediation procedure null and void and the proceedings continue (Art. 1534-3, para. 3).

Mediation is, however, eligible for **legal aid**. Moreover, the work of approved mediators is partly financed by the Caisses d'allocations familiales (family allowance funds, or "CAF") according to a scale that was revised in 2023[21]. The

[19] See for instance: : F. Vert, Décret du 18 juillet 2025 : une étape importante dans la politique nationale de l'amiable, *Actu-Juridique*, 21 juil. 2025.

[20] See: F. Vert, art. prec.

[21] See, The Report published by the CAF, L'atlas de la médiation familiale, Exercice 2023.

fee for the first mediation meeting depends on income, and in any case does not exceed 131 euros. Private mediators offer variable rates. However, the question of whether **legal protection insurance** can cover mediation is still open: discussions are underway in this regard.

As part of the **mediation mission**, the mediator shall summon the parties to hear them (CPC, Art. 1535); they may be assisted by any person qualified to do so before the court that ordered the mediation (CPC, Art. 1535-2). The mediator has no powers of investigation, but may, with the agreement of the parties, visit the premises and hear third parties who consent to this (CPC, Art. 1535-1). Furthermore, as the judge has not been relieved of jurisdiction, he or she remains entitled to order, if he or she deems it necessary or at the request of one of the parties, any measures, in particular investigative measures or provisional or protective measures (CPC, Art. 1535-3). The judge must be kept informed by the mediator throughout the mediation process of any difficulties encountered and of the possible outcome of the measure (CPC, Art. 1535-4). The judge may terminate the mediation at any time at the request of one of the parties or on the initiative of the mediator, or even on his or her own initiative (CPC, Art. 1535-5).

If they reach an agreement, the parties, or the most diligent of them, may submit it **to the judge for approval at any time**. Approval gives the agreement reached through mediation enforceable force (CPC, Art. 1543). The judge competent to approve the agreement is the judge "already seized of the dispute" or who would have been competent to hear it; he rules on the application submitted to him without debate, unless he considers it necessary to hear the parties at a hearing (CPC, Art. 1545). The judge may only approve the agreement if its subject matter is lawful and does not contravene public policy; however, the judge may not modify the terms of the agreement (CPC, Art. 1544). These provisions also apply to agreements resulting from conventional mediation.

ii) Special provisions for child protection.

Right to be heard in mediation. Article 1541-2 of the CPC, which falls under the provisions of common law applicable to all mediation agreements, specifies that "Where the agreement concerns a minor capable of discernment, in particular where it relates to the exercise of parental authority, the document shall specify the conditions under which the minor has been informed of his or her right to be heard by the judge or the person designated by him or her and to be assisted by a lawyer." Failing this, the agreement cannot be approved by the judge and made enforceable. This provision therefore aims to protect the right of minors capable of discernment to be heard, including by the mediator in the context of mediation.

Provision specific to educational assistance. For the application of article 375-4-1 of the French Civil Code, which allows the children's judge ("juge des enfants") to order family mediation in matters of educational assistance, decree no. 2023-914 of October 2, 2023, supplemented by a circular from the directorate of the *Protection Judiciaire de la jeunesse* (judicial youth protection or "PJJ") dated January 8, 2024, introduces article 1189-1 du code de procédure civile (CPC). This provision first specifies the purpose of family mediation in educational assistance: "*family mediation ordered by the children's judge (...) is intended to help parents put an end to their conflict, which is contributing to a situation of danger for the child*"[22]. The aim of family mediation is therefore to restore dialogue between the parents in order to protect the child from conflict. The provision also defines the conditions for appointing a family mediator, the procedures for implementing family mediation in educational assistance cases, and the conditions for approving the agreement resulting from this mediation.

The circular of January 8, 2024 highlights the specific features of mediation in the field of child protection: "Family mediation ordered by the juvenile court judge, while constituting a tool for restoring dialogue between the parents in the interests of the child, can also enable them to find common ground on the terms of exercising parental authority (setting the habitual residence, visiting and accommodation rights, etc.)"[23].

Articulation with the common law regime. The ordinary law provisions of articles 1530 and seq. of the CPC (see above) remain applicable to mediation ordered by the children's judge in the context of educational assistance. Thus, the principle of confidentiality applies to mediation[24], so that the drafting of an educational report is excluded (see above). However, article 1189-1 of the CPC brings additional specifications to these provisions.

Firstly, this article explicitly allows the mediator **to hear a child** who consents, subject to the parents' agreement and the child's best interests[25].

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[22] Original French version : « *la médiation familiale ordonnée par le juge des enfants (...) a pour objet d'aider les parents à mettre fin à leur conflit concourant à la situation de danger pour l'enfant* ».

[23] Original French version: « La médiation familiale ordonnée par le juge des enfants, si elle constitue un outil de restauration du dialogue entre les parents dans l'intérêt de l'enfant, peut également permettre à ces derniers de trouver des terrains d'entente sur les modalités d'exercice de l'autorité parentale (fixation de la résidence habituelle, droits de visite et d'hébergement, etc.) ».

[24] See. art. 1528-3 CPC

[25] CPC, art. 1189-1, al. 3.

Regarding the approval or "homologation" of the agreement, it states that the parents may refer the matter not to the children's judge ("juge des enfants" or JE), but to the family affairs judge ("juge aux affaires familiales" or JAF), in application of article 373-2-7 of the Civil Code, for approval of their agreement on the terms and conditions for exercising parental authority. Before approving the agreement, the family affairs judge (JAF) must ensure that it has been freely entered into by the parents, and that it "sufficiently safeguards the interests of the child". If the minor is the subject of an educational assistance procedure, the JAF may ask the children's judge (JE) to communicate the documents relating to the said procedure[26], and in return the JAF will then forward his or her decision to the children's judge[27].

Another important point is that the decree of October 2, 2023 provides a specific **framework for the appointment of family mediators in matters of educational assistance**. In addition to the conditions laid down in article 1530-2 of the CPC[28], which apply to all mediation procedures, the family mediator appointed in the context of educational assistance must hold the State diploma mentioned in article R. 451-66 of the *Code de l'action sociale et des familles* (CASF) or, failing this, training in the practice of mediation relating to parental conflict involving danger for the child[29]. Family mediators involved in educational assistance proceedings must therefore have knowledge of child protection issues, as evidenced by a specific State diploma or by specific training at the discretion of the general assembly of magistrates of the court of appeal that draws up the list of mediators. Consequently, the appeal courts should specify, within the list of family mediators, those who have the training required to intervene in educational assistance cases (V. circ. January 8, 2024).

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[26] CPC, art. 1072-1.

[27] CPC, art. 1187-1.

[28] CPC, art. 1530-2: « *La personne physique qui assure l'exécution de la mesure de médiation doit satisfaire aux conditions suivantes: 1° Ne pas avoir fait l'objet d'une condamnation, d'une incapacité ou d'une déchéance mentionnées sur le bulletin n° 2 du casier judiciaire pour le médiateur désigné dans le cadre d'une médiation judiciaire ou sur le bulletin n° 3 du casier judiciaire pour le médiateur désigné dans le cadre d'une médiation conventionnelle ; 2° Ne pas avoir été l'auteur de faits contraires à l'honneur, à la probité et aux bonnes mœurs ayant donné lieu à une sanction disciplinaire ou administrative de destitution, radiation, révocation, de retrait d'agrément ou d'autorisation ; 3° Justifier, selon le cas, d'une formation ou d'une expérience adaptée à la pratique de la médiation ; 4° Présenter les garanties d'indépendance nécessaires à l'exercice de la médiation ; 5° Dans le cadre d'une médiation judiciaire, posséder, par l'exercice présent ou passé d'une activité, la qualification requise eu égard à la nature du litige* ».

[29] CPC, art. 1189-1, al. 2.

1.2. Other amicable arrangements regarding family matters

Two main mechanisms complete the legal arsenal available to parties and/or judges for the amicable settlement of family disputes: conciliation by the judge, including “l’audience de règlement amiable” (amicable settlement hearing) (a) and "la convention de procédure participative aux fins de règlement amiable” (participatory procedure agreement) (b).

a) Conciliation by the Judge and « Audience de règlement amiable » (ARA)

The judge hearing a dispute may, at any time, seek to reconcile the parties himself (CPC, Art. 1531). He may also entrust this task to someone other than himself, such as a judicial conciliator or even, within the framework of amicable settlement hearings, another judge.

Judicial conciliators. The decree of July 18, 2025 establishes the power of the judge, at any time, to order the parties to meet with a judicial conciliator (CPC, Art. 1533), who is a "volunteer third party appointed by Decree No. 78-381 of March 20, 1978 on judicial conciliators " (CPC, Art. 1530-1), or and/or to appoint such a conciliator (CPC, Art. 1534): the provisions applicable to judicial mediation also apply to conciliation by a judicial conciliator. This provision enshrines a practice that some judges were already implementing on the basis of the former Article 127 CPC[30].

The **« audience de règlement amiable »** (ARA) is an amicable dispute resolution procedure introduced in France in 2023 (Decree no. 2023-686 of July 23, 2023), which enables an attempt to be made to find a negotiated solution to a dispute during legal proceedings, under the aegis of a judge specially appointed for this purpose (CPC, art. 1132). According to article 1532-1 of the CPC, “The purpose of the amicable settlement hearing is to achieve an amicable resolution of the dispute between the parties, through a balanced confrontation of their points of view, an assessment of their respective needs, positions and interests, and an understanding of the legal principles applicable to the dispute”[31].

[30] See : : F. Vert, art. prec.: “l’article 127 du Code de procédure civile dans sa rédaction en vigueur jusqu’au 1er septembre 2025 [qui] permet à tout juge de proposer aux parties qui ne justifieraient pas de diligences amiables pour parvenir à une résolution amiable du litige une mesure de conciliation ou de médiation ».

[31] Original French version : « L’audience de règlement amiable a pour finalité la résolution amiable du différend entre les parties, par la confrontation équilibrée de leurs points de vue, l’évaluation de leurs besoins, positions et intérêts respectifs, ainsi que la compréhension des principes juridiques applicables au litige ».

The judge hearing the case (judge hearing the merits, summary proceedings judge, or pre-trial judge) may decide, at the request of a party or ex officio after consulting the parties, to convene them to an ARA. The "amicable" hearing is then held by another judge, who is not a member of the panel hearing the case on the merits. This judge does not have the power to rule on the merits of the case, but acts as a facilitator and conciliator, which is why ARA can be likened to mediation.

The ARA takes place in chambers, in a confidential setting: anything said there cannot be used later if the dispute returns to court. The parties must appear in person. They are assisted by their lawyers. If the parties reach an agreement, the ARA judge can draw up minutes, which can then be homologated and made enforceable. If no agreement is reached, legal proceedings resume before the judge initially seized: The time limit for the proceedings is suspended during the ARA period (CPC, Art. 1532, para. 3).

The decree of July 18, 2025 generalised (except for labor courts) the ARA, which until then was only possible in judicial courts and commercial courts of first instance. The ARA is now permitted even in appeals, but not before the Court of Cassation.

Application to family matters. As family proceedings fall within the jurisdiction of the judicial court, they were therefore eligible for ARA even before the decree of July 18, 2025 was adopted. Like other methods of amicable settlement, however, ARA is only available for disputes concerning rights that are freely alienable or available ("droits disponibles") to the parties. , The difficulty, already mentioned, of clearly distinguishing between alienable and unalienable rights in family matters is far from clear, which leaves room for debate as to the scope of the ARA: while international abductions, for example, are clearly outside its scope, certain aspects relating to parental responsibility could fall within it.

b) « Convention de procédure participative aux fins de résolution amiable » (participatory procedure agreement for the purposes of amicable resolution)

Presentation. Article 1538 of the CPC states that a participatory procedure agreement for the purposes of amicable resolution is one "by which the parties, each assisted by a lawyer, undertake to work together in good faith to resolve their dispute amicably." It therefore differs from the aforementioned methods of amicable settlement in that it does not rely on the intervention of a neutral and impartial third party: it is the parties and they alone, assisted by their lawyers, who seek and, eventually, find an amicable solution to their dispute.

The participatory procedure agreement is subject to Articles 2062 to 2067 of the Civil Code. Article 2062 of the French Civil Code defines it as "an agreement by which the parties to a dispute undertake to work jointly and in good faith towards the amicable resolution of their dispute or the settlement of their litigation"[32]. It specifies that this agreement is concluded for a fixed term. The content of the agreement is prescribed by article 2063 of the same Code, under penalty of nullity.

If the agreement was entered into before the dispute was referred to a judge, and for as long as it is in force, it "renders inadmissible any recourse to the judge for a ruling on the dispute. However, non-performance of the agreement by one of the parties authorizes another party to refer the dispute to the court for a ruling"[33] (C. civ., art. 2065). Furthermore, it does not prevent the parties from requesting provisional or conservatory measures in urgent cases.

If it is concluded while proceedings are pending, it suspends the limitation period for the proceedings until the agreement expires (CPC, Art. 1538-2).

The participatory procedure is governed by articles 1539 et seq. of the French Code of Civil Procedure in a rather basic way.

Any agreement reached by the parties is a private agreement (CPC, art. 1539-3), that can be homologated by the judge (C. civ., art. 2066, CPC, art. 1543), under the same conditions as an agreement resulting from mediation, but this provision does not apply to divorce (C. civ., art. 2067).

Application to family matters. Like the ARA, the participatory procedure agreement has a limited scope of application. It can be concluded by any person "concerning rights of which he has free disposal" (« sur les droits dont elle a la libre disposition », C. civ. art. 2064). It can therefore be used in family matters, but with this proviso. This is confirmed by article 2067 of the Civil Code, which states: "A participatory procedure agreement may be concluded by spouses with a view to seeking a consensual solution in matters of divorce or legal separation. Article 2066 does not apply in this case. An application for divorce or legal separation submitted following a participatory procedure agreement is formed

[32] In French : « une convention par laquelle les parties à un différend s'engagent à œuvrer conjointement et de bonne foi à la résolution amiable de leur différend ou à la mise en état de leur litige ».

[33] In French : la convention « rend irrecevable tout recours au juge pour qu'il statue sur le litige. Toutefois, l'inexécution de la convention par l'une des parties autorise une autre partie à saisir le juge pour qu'il statue sur le litige »

and judged in accordance with the rules set out in Title VI of Book I relating to divorce"[34]. Here again, the persistent vagueness of the concepts of available and unavailable rights raises questions, but it is clear that certain disputes specific to family matters, such as those relating to the child abduction, are excluded from the scope of the participatory procedure agreement.

It is now necessary to analyse in greater detail how the legal framework described above deals with the specific case of international child abduction.

2. Mediation et child abductions : an (almost) blind spot

With the exception of article 1210-4 of the CPC concerning the missions of the public prosecutor (see below), there is no specific provision in French law for mediation in the context of international child abduction. It is nevertheless possible, as we have seen, since mediation is open to all family matters.

On the other hand, it does not seem possible to extend to international abductions the provisions specific to family mediation in educational assistance (see above), even though a certain analogy is possible, particularly in view of the concern to protect the child. However, in addition to the fact that this analogy is not provided for in the texts, they seem to prevent in practice mediation in abduction cases from being treated as mediation in educational assistance cases, insofar as the competent judges - the family affairs judge (JAF) there, the children's judge (JE) here - are not the same. Here we see the disadvantages of the division of roles between the JAF and the “juge des enfants” (JE). The difficulties of coordination that exist in domestic situations are exacerbated in international matters.

The procedure for international abductions is described in articles 1210-4 et seq. of the CPC. In the many cases where the 1980 Hague Convention is applicable[35], the central authority (2.1), in conjunction with the public prosecutor (2.2.), plays an important role, with mediation possible at both level.

[34] In French : « Une convention de procédure participative peut être conclue par des époux en vue de rechercher une solution consensuelle en matière de divorce ou de séparation de corps. L'article 2066 n'est pas applicable en la matière. La demande en divorce ou en séparation de corps présentée à la suite d'une convention de procédure participative est formée et jugée suivant les règles prévues au titre VI du livre Ier relatif au divorce ».

[35] That is, when the removal took place from one contracting country to another contracting country.

2.1. Mediation and Central Authority

Unsurprisingly, the role of the central authority is not detailed in the CPC. It derives directly from the 1980 Hague Convention and the Brussels II ter Regulation. Information on its role is provided by the Ministry of Justice website[36]. Under these conditions, it is hardly surprising that French law contains no formal legal provisions concerning the implementation of mediation by the central authority: it is only the practice developed by the French central authority, namely "Département de l'entraide, du droit international privé et européen (DEDIPE)", attached to the "Direction des affaires civiles et du Sceau" (DACS) of the Ministry of Justice which enables us to understand the place reserved for mediation (on this practice, see Part II below).

In the case of international abductions not covered by an international convention, the central authority has no jurisdiction, and the parent must therefore refer the request for return of the child directly to the judge. There is no specific provision encouraging the family court hearing a request for return to order the parties to meet a mediator. Furthermore, even when the Hague Convention is applicable, the parent is not obliged to go through the cooperation mechanism of the central authorities. He or she can refer the matter directly to the court. Here again, there is no specific rule encouraging mediation.

2.2. Mediation et Public Prosecution

When the displaced child is on French territory, the central authority shall forward the request for return to the public prosecutor at the court with territorial jurisdiction pursuant to Article L. 211-12 of the CPC. It is the responsibility of the public prosecutor to locate the child or confirm his or her location and to inform the court that would have been seised of the merits of the case of the arrangements for the exercise of parental authority and of the request for return. It is also the responsibility of the public prosecutor to "take all measures to **ensure the voluntary return** of the child, in particular by hearing the person alleged to have removed or retained the child and inviting them to return the child voluntarily, or to **facilitate an amicable solution**"[37]. He may, but is not obliged, to propose mediation. It is again the responsibility of the public

[36] https://www.justice.fr/enlevements-internationaux-enfants-droits-visite-transfrontieres#:~:text=Qu'est%2Dce%20qu',)%20de%20l'autre%20parent.

[37] In French : « prendre toute mesure en vue d'assurer la remise volontaire de l'enfant, notamment en faisant procéder à l'audition de la personne dont il est allégué qu'elle a déplacé ou retenu l'enfant et en l'invitant à un retour volontaire de l'enfant, ou de faciliter une solution amiable ».

prosecutor to initiate legal proceedings to obtain the return of the child by referring the matter to the **family court judge (JAF)** of the specially designated court within whose jurisdiction the child is located[38]. He is therefore the main party in proceedings for the return of a child who has been removed or retained in France.

If the child is moved or retained abroad, the public prosecutor may order any investigative measures to gather information about the child and his or her material, family, and social environment that has been requested by the foreign central authority. Amicable methods of dispute resolution are not mentioned in this scenario.

Conclusion. Even if it still seems possible and even desirable, in some cases, to strengthen the legal provisions enabling the use of family mediation in France, particularly to ensure that they are better adapted to international matters, the French legal framework appears to be relatively robust. However, the concrete results of family mediation in international matters are very disappointing, as these provisions are still insufficiently applied in practice.

II- International family mediation in France: still insufficiently adopted in practice

The authors of this report met with numerous professionals[39] —judges from courts of first instance, appeal courts, and courts of cassation; academics specializing in mediation; lawyers; mediators; and ministerial services—in an attempt to identify, beyond the formal legal framework described in the first part of this report, the state of international family mediation practice in France, particularly in cases of international child abduction. The feeling that emerged from these hearings, reinforced by the authors' personal knowledge of judicial practice in this area, is that despite a relatively favorable regulatory environment, mediation is not yet well developed in international family disputes in general, and in child abduction cases in particular. However, the advantages of this method of dispute resolution in international family matters, including in cases of child abduction, are generally recognized by practitioners, even if some doubts have been expressed (1). According to a paradox that is only apparent, since there are still significant obstacles to the efficient practical

[38] Art. 1210-7, CPC. There is only one court with jurisdiction per court of appeal to hear requests for return in cases of international abduction. See the list.
[39] See the Appendix

implementation of international family mediation, mediation remains nevertheless very little used (2).

1. A dispute resolution method whose benefits are widely recognized

The value of mediation in international family matters is generally recognized by judicial actors: particularly suited to family disputes (1.1.), mediation or similar methods of dispute resolution also have the advantage of being potentially and usefully applicable at all levels of dispute resolution (1.2.). While the use of mediation is questioned in cases involving allegations of domestic violence, practitioners seem to consider that it is still relevant, even in these circumstances (1.3).

1.1. A method of settlement particularly suited to international family disputes

Several arguments are put forward to argue that international family disputes, including those relating to child abduction, should be dealt with through mediation.

The best interests of the child. When children are involved in family disputes, their interests must be at the heart of the conflict resolution process. The general feeling is that children never emerge unscathed from parental conflict, and that parental conflict is fueled or even reinforced by litigation. Mediation, by promoting dialogue between parents and, where appropriate, a peaceful resolution of the conflict, is therefore an interesting tool for protecting the interests of the child as far as possible. Many judges consider that they are not best placed to assess the interests of the child. The legal debate is also biased: once the child is habitually resident in France, the judge will, in the absence of parental agreement, be reluctant to authorize the child's move abroad. The parent who intends to settle outside France (e.g., return to their country of origin) is thus placed in a position of weakness.

Importance of maintaining family ties: In line with issues relating to the best interests of the child, family disputes, perhaps even more so than economic disputes, call for a method of resolution that can guarantee the continuity of the relationship between the parties, beyond the settlement of parental separation or parental authority. Particularly when children are involved, maintaining a cordial or at least neutral relationship between parents is essential to protect

the best interests of the children. In this regard, mediation offers a decisive advantage over litigation, provided, however, that its implementation promotes the pacification of relations, as we will return to later.

Need for creative solutions. International family disputes are particularly complex to resolve because they pit sometimes equally legitimate aspirations against each other: the desire of both parents to maintain a strong bond with their children; the need felt by one or both parents from different countries, in the event of separation, to return to their country of origin to benefit from a more favorable social, economic, and family environment. Legal solutions, which are often abrupt (fixing residence in one country, obligation to return, etc.), therefore appear unsatisfactory, whereas agreements negotiated by the parties can offer original and functional alternatives (e.g., a mediation agreement providing for alternating residence in France and England on an original shared basis (two quarters in France, one quater in England), concluded with the agreement of the children's schools).

Cultural dimension. Beyond personal aspects, mediation is also the appropriate way to overcome differences in legal cultures that judicial proceedings do not necessarily address: the solution adopted by a court in one country may not be acceptable in another. Mediation also offers families the opportunity to use the services of a third party with qualities that correspond to their specific cultural characteristics.

Effectiveness of the settlement: In some respects, a mediation agreement may prove more effective in an international context than a court decision. Because it is agreed upon by both parties, a mediation agreement is more readily accepted, which promotes its voluntary enforcement. Furthermore, it appears that the enforcement authorities (civil prosecutors, law enforcement agencies) are reluctant, except in return proceedings, to enforce by force court decisions in family matters (e.g. those relating to the determination of the residence of children). Being the beneficiary of a judgment is therefore not an absolute guarantee of a successful outcome.

It should be noted, however, that a certain reluctance has been expressed about mediation, mainly by some lawyers. Their doubts seem to be less related to a belief that mediation is not an appropriate means of resolving international family disputes than to the practical difficulties that these professionals have encountered in their experience of implementing mediation (see *below* the obstacles to the development of mediation).

1.2. A settlement method appropriate at any stage of the dispute

The potential of mediation is all the greater given that, in the opinion of professionals, this method of dispute resolution can be used at any stage of the proceedings. Although **out-of-court mediation** is legally possible, as we have seen, in practice it seems that in family matters, the parties, who are unaccustomed to litigation, tend to go to court very quickly. This observation makes it particularly **important to develop visible and effective pre-mediation services** to encourage the parties to resort to mediation before taking legal action.

For the time being, therefore, mediation in family matters is mainly used **in the context of legal proceedings**. While mediation would seem, at first glance, to be something that should be encouraged at an early stage of the proceedings, before the first instance trial judges and ideally even before the day of the hearing, its relevance in appeal proceedings has been highlighted by judicial actors: on appeal, some parties lose their fighting spirit, particularly when the decision leads them to lower their expectations. Sometimes, interpersonal tensions begin to ease. Above all, in the French system, the time limits for appeals are much longer than in the first instance, which may lead the parties to seek quicker solutions. We will see that, even in the context of an appeal to the Court of Cassation, mediation can prove to be relevant.

It should be borne in mind that mediation may have the same subject matter as a dispute that is or may be the subject of litigation – in which case mediation is, at some stage, a **substitute for court proceedings** – but the subject matter of mediation may also be different from that of court proceedings, in which case mediation is **complementary to court proceedings**. This may occur, for example, when a judge rules on the merits of a claim (e.g., a divorce) but refers the parties to mediation to determine the consequences of that decision (alimony, visitation rights); or when a court decision is rendered but mediation is organized on the terms of enforcement of that decision. Before the Court of Cassation, if the subject matter of an appeal ("pourvoi")—generally a pure question of law—is not amenable to mediation in itself, the time taken by the cassation proceedings may nevertheless be a useful opportunity to encourage the parties, faced with the risk of further delays in the proceedings, to agree to mediation on the substance of their dispute.

1.3. A settlement method questioned when domestic violence is alleged

French law excludes mediation in family matters as a matter of principle whenever allegations of domestic violence are made (see above, Part I). Practitioners tend to be critical of this categorical exclusion. Provided that significant precautions are taken to protect the vulnerable party, mediation is seen as a mechanism that can have positive effects, even in cases of domestic violence. Conducted by experienced professionals, ideally assisted by psychologists, it can help the vulnerable party to escape from their position as a victim and make the other party aware of the pathological nature of their behavior.

2. A paradoxically little-used method of dispute resolution

Given the lack of official statistical tools already noted (see general introduction), it is difficult to objectively assess certain findings that are based on the experience or personal impressions of the people interviewed. Empirical observation of court practice reveals that, although a number of mechanisms are in place to promote international family mediation in practice, they remain underutilized (2.1.), as significant obstacles hinder the development of international family mediation (2.2.).

2.1. Tools are in place, but are underutilized

The French system relies heavily on judges to encourage parties to use alternative dispute resolution methods, making mediation easier to implement in ongoing legal proceedings (b). However, outside the judicial framework *strictly speaking*, support mechanisms for mediation do exist (a).

a) Support mechanisms for mediation outside the judicial system (pre-mediation)

The parties are always free to choose an amicable settlement of their family dispute, without involving a judge. However, experience shows that individuals involved in international family disputes, who are unfamiliar with dispute resolution methods, do not spontaneously consider mediation. Yet, as long as the matter has not been officially brought before a court, there are few official and public[40] information mechanisms on mediation, which could be described as "pre-mediation." They do exist, however, and are provided by the International

[40] The work carried out by the many associations working in this field is not analyzed here.

Social Service (SSI France) (i), the "Caisse d'allocations familiales" (Family Allowance Fund) (ii) and, in the specific case of international abduction, by the Ministry of Justice and the central authority attached to it (iii).

(i) International Social Service in France (SSI France)

The International Social Service (ISS) is a non-governmental organization (NGO) that intervenes in situations involving cross-border social issues. It is part of a global network present in more than 120 countries, with a general secretariat based in Geneva and branches in several countries, including the International Social Service - France (ISS France), registered as an association under the French law of 1901.

Offering social support to families in cross-border situations, SSI France is ideally placed to provide them with information on the possibility of using mediation to resolve their transnational disputes. Although it does not offer mediation services itself, SSI France already provides a service that could be described as "pre-mediation": in addition to providing information on the advantages of mediation, SSI France, as part of an international network, is able to refer families or professionals to specialized and certified mediators in France and in several other countries. It also sometimes facilitates the logistical conditions for international mediation (translation, coordination between countries, etc.).

SSI France is also responsible for managing "116 000 Enfants disparus," the toll-free number in France dedicated to missing children and parental abductions.

(ii) Family mediation services offered by the « CAF »

In France, as mentioned above (*supra* I), the "Caisses d'allocations familiales" (family allowance funds) strive to promote access to mediation in cases of family disputes. They provide information to families, but also offer practical services to facilitate families' access to mediation.

Information on the possibility of resorting to family mediation. The CAF publish information on family mediation on their websites and in the documentation made available to their beneficiaries[41], highlighting the advantages of this method of resolving family disputes.

Free initial consultation with a mediator. When families consider mediation under the auspices of the CAF, they are entitled to an initial session (lasting 45

[41] See, for example: *Guide de prestations CAF* (CAF benefits guide)

minutes to 1 hour) with a mediator, completely free of charge. This session is an opportunity for the mediator to explain the advantages and terms of mediation to the parties and to check whether the conditions are right for mediation.

"Médiation conventionnée". The decision to proceed with mediation is up to the parties. If they decide to proceed and wish to do so, they may use mediators approved by the CAF to try to resolve their family dispute. The approval process allows the mediator's services to be standardized for the parties: the parties pay according to their family income (from 2 euros to 131 euros per session of one to two hours).

Mediation in international matters. According to the CAF website, nearly 43,000 people benefited from mediation in 2022. However, there are no official statistics identifying which of these mediation measures were international in nature. This is because the mediations recorded by the CAF are based on data collected from "services conventionnés". At present, the software used to collect this data does not allow for the direct or indirect indication or determination of whether mediation is international or national: a change could be desirable to facilitate the compilation of reliable statistics. As far as can be judged, international family mediation seems to account for a very small proportion of mediation measures, although it does exist. For example, the association Parenthèse Médiation, approved by the CAF, reports 19 international cases for the years 2023/2024.

(iii) The role played by the Ministry of Justice and the French central authority (DEDIPE) in cases of parental abduction

As the proponent of a public policy that is generally favorable to mediation, the French Ministry of Justice naturally supports the use of mediation, including in cases of parental abduction. Its website states that mediation can help restore contact with the other parent and find a solution that is in the best interests of the child. It outlines the main features of mediation. In addition, the website invites users to contact one of the **international family mediators listed by the French central authority** (List of international family mediators). It specifies that these mediators are qualified, have specific expertise in international parental conflict situations, and speak several languages. The website also lists the information that mediators will need.

In implementing this general policy, the French central authority responsible for return (le Département de l'entraide, du droit international privé et européen

(DEDIPE) of the Ministry of Justice) [42] is committed to developing mediation, both prior to any referral to the courts and after a return decision has been made, in the post-sentence phase. The central authority may therefore support mediation outside any judicial framework, as well as within a judicial framework, while proceedings are ongoing or even after they have been completed.

The results of this policy are difficult to assess. Over a period and for a total number of return requests that have not been precisely defined, the DEDIPE has recorded just under 50 international family mediation measures carried out in France or abroad, including 20 within Europe, in the cases referred to it. It also sent a questionnaire to the mediators on its list, mainly for statistical purposes. Seven mediators/mediation associations (out of the 18 on the list) responded to the questionnaire. They reported that they had been contacted six times through the DEDIPE list and had carried out 42 international family mediations in 2023, although the nature of the disputes and therefore the proportion of disputes relating to parental abduction is not known.

To encourage mediation in cases of international child abduction, the DEDIPE has set up a special information system. For the sake of clarity, a distinction must be made between cases where the parent has applied to the French central authority for the return of a child unlawfully removed from France (Art. 8, Hague Convention) or whether the French central authority has been asked by a foreign authority to organize the return of a child who has been illegally taken to France (Articles 9 and 10 of the Hague Convention). However, in both cases, this only involves providing information, as the DEDIPE does not offer a "mediation service" as such.

***Information provided in response to a direct referral to the DEDIPE by a parent due to the unlawful removal of a child from France.**

When a request for return is made directly by a parent to the French central authority (DEDIPE) with a view to securing the return of a child who has been unlawfully removed to another country, the DEDIPE systematically suggests to the applicant, before forwarding the file to the relevant foreign central authority and thus officially initiating the return procedure, that mediation be considered. Moreover, the return request form includes a question asking the applicant whether they would be open to international family mediation. If the applicant expresses interest in such a process, the defendant's agreement to this method

[42] It should be noted, as mentioned in the first part, that the request for return may also be made directly to a judge, in which case the DEDIPE is rarely informed or consulted and cannot therefore play this information role.

of settlement must also be sought and obtained, where necessary with the assistance of the central authority of the State in which the defendant is located.

In this context, the DEDIPE also strives to develop mediation in its exchanges with other central authorities: the referral letter it sends them is accompanied by a brochure on mediation and a list of international family mediators (see below).

***Information provided in connection with a referral to the DEDIPE by a foreign central authority concerning the unlawful removal of a child to France**

When referred to by a foreign central authority that has itself received a request for the return of a child unlawfully removed to France, the DEDIPE must "take urgent action to secure the return of the child" (Art. 11, Hague Convention). However, Article 10 of the Convention also provides that "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 practice of the French DEDIPE is then to contact the abducting parent, asking them to respond with reasons within 10 days. At this time, they are informed of the possibility of mediation. If no satisfactory response is received within the specified time limit, the DEDIPE refers the matter to the courts through the public prosecutor's office in order to initiate the return procedure (see the procedure described *above* in Part I).

***Absence of a genuine international "mediation service" within the DEDIPE**

The DEDIPE only plays an informational and advisory role vis-à-vis the parties. It provides a list of mediators (already mentioned *above*), available on its website, whom the parties may contact if necessary, but it does not accompany or supervise the mediation if the parties decide to resort to it.

This has not always been the case: a mediation unit, composed of two mediators whom the parties could choose to contact, was at one time directly attached to the DEDIPE. This service was abolished in 2020, on the official grounds that it was problematic, from the point of view of impartiality, for the DEDIPE to be both the central authority responsible for return requests and the authority organizing any mediation between the parties. This argument is not entirely convincing. In any case, we will come back to this point later, but the main criticism here is that the solution chosen as an alternative to this service (providing a list of mediators) is proving unsatisfactory in practice.

b) Support mechanisms for mediation in a judicial context

The initiation of family court proceedings appears to be potentially more conducive to the implementation of an amicable settlement, provided, however, that judges make proactive use of this tool. The French public authorities are well aware of this and have both incorporated mediation training into the **training of French judges** (modules offered at the "Ecole Nationale de la Magistrature (ENM), both in initial and continuing training) and provided them with tools enabling them to **integrate mediation into the judicial process**.

In French court practice, there are therefore relatively many opportunities to use mediation or similar methods of amicable settlement, which are spread throughout the proceedings.

(i) Trial judges at first instance

As we have seen (*supra Part I)*, several options are available to trial judges in family mediation in general.

-**Order to meet with a mediator (double summons procedure)**. The practitioners interviewed seem to feel that courts of first instance make relatively little use of this option. In Paris, for example, the practice was fairly widespread in domestic cases before 2020 but has since been abandoned. Furthermore, defendants are not always inclined to comply with the order. These limitations could be remedied by the civil penalty created by the decree adopted on July 18, 2025, applicable to the party(ies) for non-compliance with the order (CPC, art. 1533-3)..

-On the **day of the hearing**, the JAF may propose to the parties that they **resort to mediation** and obtain their agreement. To facilitate the use of mediation in this context, some courts—in any case the "Tribunal judiciaire" in Paris—have mediators on site (including a psychologist from the "Protection Judiciaire de la Jeunesse" (PJJ)), whom the parties can contact immediately. However, the **Audience de règlement amiable** (ARA - amicable settlement hearing) remains of limited application in family disputes largely involving unavailable rights ("droits indisponibles" - see *above* Part I).

-When **handing down the decision**, the JAF may choose to issue a decision (e.g., a divorce decree or a ruling on parental authority) and accompany it with an order requiring the parties to seek family mediation to organize the consequences of the decision (residence, visitation rights, child support, etc.).

The judges interviewed were in favor of this practice, but no data allowed us to objectively assess its practical use in international family mediation.

It is also important to highlight the existence of highly experimental measures that have been implemented in certain jurisdictions. The "**coordination parentale**" (parental coordination) measure, which has been trialed in the Paris "Tribunal judiciaire", is particularly noteworthy. This is a structured process, often implemented following a court decision (divorce decree, custody order, etc.), in which a qualified professional (parental coordinator) helps parents to implement the judge's decisions, resolve disagreements relating to the exercise of parental authority, and communicate more effectively in the interests of the children and thus reduce the level of conflict and avoid constant back-and-forth trips to court. The parental coordinator plays a more active role than the mediator, and the coordination process is generally longer than mediation. The system has no specific legal framework in France, but it can nevertheless be implemented under the applicable provisions. The obstacles are related to its duration and, where applicable, its cost (see *below*).

In general, it can be observed that in France, the practice of mediation in family matters seems to be mainly linked to the awareness of judges of this method of dispute resolution. This is one of the obstacles to its permanent establishment in judicial practice, as will be discussed below.

(ii) Appeal Courts

For the reasons already outlined, particularly the length of the appeal process, recourse to mediation at the appeal stage is clearly beneficial. Discussions have revealed that the Paris Court of Appeal has a team of mediators attached to the family division. However, this is not the case for the Court's chamber responsible for child abduction cases. There is a desire within the chamber to have such a team, which would be made up of mediators who are immediately available and competent to deal with transnational mediation, but its implementation is hampered by difficulties in financing and identifying suitable candidates.

(iii) Cour de cassation (French Supreme Court)

In 2021, at the instigation of its First President, the Court of Cassation set up a Working Group on Mediation. This group has achieved concrete results, both in terms of the legislative framework (decree of February 2022 establishing the conditions for recourse to mediation before the Court of Cassation) and in terms of the practices of the chambers. Practices vary from one chamber to another. The First Civil Chamber, which deals more specifically with international family matters, has mainly used the "injunction to meet with a mediator" tool: in a

number of pending international family cases, at an early stage of the proceedings (after the case has been registered), a letter has been sent to the "avocats aux conseils" (lawyers specially authorized to appear before the Court of Cassation) instructing them to contact a mediator appointed by the Court for a preliminary meeting. The results of this approach have been mixed: the Court considers that even if the parties did not reach an agreement, the measure has positive effects (partial resumption of dialogue between the parties); the lawyers concerned are much more ambivalent—it is the quality of the mediation that is mainly called into question, as we shall see below.

In any event, the Court of Cassation is discussing the possibility of extending the experiment: a mechanism for recourse to mediation could thus be provided for in the new edition of the Weber[43]. This would obviously not be a question of systematizing mediation, but of using it in cases, including transnational cases, where it is appropriate.

The tools are therefore in place, but for reasons that we will now analyze, they still seem to be used relatively little in domestic cases and even less in international cases.

2.2. Barriers to the development of international family mediation

Despite a relatively favorable regulatory framework and proactive public policies, international family mediation appears to be still relatively uncommon in France. The explanation for this paradox lies in the fact that significant obstacles still hinder the development of this practice. It is essential to clearly conceptualize these obstacles, which are institutional (a), cultural (b), and financial (c), if we are to find effective solutions.

a) Institutional obstacles

Procedural obstacles. With regard to international child abductions, Article 24 of the Brussels II ter Regulation provides that a court of first instance seised of an application for return "shall give its decision within six weeks of the date of the application, unless exceptional circumstances make this impossible." The vast majority of those interviewed argued that this time limit makes it impossible in practice to organize mediation, at least mediation aimed at resolving the dispute relating to the wrongful removal, especially since, as will be discussed below, judges currently have few tools at their disposal to facilitate the rapid

[43] J.F. Weber, *La Cour de cassation*, La documentation française, 2006 – new edition in preparation.

establishment of an international mediation mechanism. A very small number of them observed that mediation could be initiated notwithstanding this strict time limit, on the understanding that the settlement of the dispute on its merits should be considered beyond the sole issue of the return of the child.

Organizational obstacles. Some of the obstacles mentioned by those consulted are related to the functioning of the courts: overcrowding in some courts, lack of court clerks ("greffiers"), turnover of judges, and inadequate tools. Others, concerning mediators, refer to the difficulties for judges, lawyers, or parties in finding mediators who are both available and have the necessary qualities to carry out international family mediation (culture, language) within very tight deadlines. Identifying these mediators is considered difficult: the DEDIPE list is often deemed unsatisfactory, while the lists of mediators approved by the courts of appeal do not include information on the qualities required for international mediation (languages spoken, familiarity with the culture of certain countries).

Limits of international cooperation. It is regularly pointed out that, even between Member States, there is cultural and legal heterogeneity with regard to family mediation, which can pose significant difficulties (e.g., despite a mediation agreement, one party may remain subject to criminal proceedings in another Member State). **Co-mediation**, which seems to be unanimously regarded as a mechanism to be encouraged, is perceived as difficult to implement due to the lack of effective links abroad.

b) Cultural obstacles

Courts. Despite initial and continuing training at the ENM and a few judges who are strongly committed to mediation, French judges still seem to lack sufficient familiarity with mediation. A certain "rigidity" is sometimes criticized as an obstacle to the approval of mediation agreements. The institutional obstacles mentioned above may also discourage judges from encouraging mediation.

Lawyers. A number of lawyers seem unconvinced by the use of mediation, citing their clients' psychology, the time wasted on procedures doomed to failure, and the poor quality of mediators. A certain "litigation culture" is sometimes highlighted in the discourse of their legal partners or even by some lawyers when referring to their colleagues. A kind of unhealthy competition between lawyers and mediators seems to be developing.

Parties. The heightened family tensions in some cases are seen as a difficult obstacle to overcome in certain mediations. Failure to comply with orders to

meet with a mediator reinforces the idea that many parties are not open to mediation.

c) Financial Obstacles

Cost of the procedure. The mediation procedure entails additional costs (mediators' and lawyers' fees, possible travel expenses), which are all the more unpopular given that a favorable outcome is not guaranteed. Mediators listed as "approved" on the DEDIPE ("tarif conventionné") list do not always charge fees that are actually agreed upon.

Limited coverage. Although legal aid for mediation has been improved, this only applies to court-referred mediation (and participatory proceedings). Furthermore, as mentioned above, the possibility of obtaining legal protection from insurers to use mediation remains highly controversial. Mediation is perceived by many legal professionals as "justice for the rich."

3. A dispute resolution process that could be improved

A few practical developments could strengthen the use of mediation in international family matters. First and foremost, **effective monitoring tools** should be put in place to provide **reliable statistics**: if the development of mediation in family matters in general, and in international family matters in particular, is a genuine public policy objective, it must, like any public policy, be subject to proper evaluation. At present, however, it is difficult to see how such an **evaluation of public policy** could be carried out. Next, a number of measures could be adopted to enable the parties to resort to and accept mediation (3.1), improve the quality of mediation (3.2) and facilitate recourse to mediation in the context of court proceedings (3.3).

3.1. Enabling the parties to resort to mediation

Four types of measures, in ascending order of difficulty, could be considered to put the parties in the best possible position to use mediation in international matters.

- **Strengthen information on mediation outside the judicial context: pre-mediation**

At present, pre-mediation is mainly handled by SSI France, with limited resources.

Strengthening information, guidance, and support mechanisms for parties to international family mediation, outside of any judicial proceedings, can only encourage and facilitate the use of mediation.

- **Rethinking the time limits for return proceedings**

As the short time limits for return proceedings are perceived as a deterrent to the use of mediation in international family matters, adjustments could be considered. This does not obviously mean extending the time limits, but consideration could be given, for example, to making recourse to mediation suspensive of these time limits.

- **Make mediation mandatory before return proceedings**

In order to protect the best interests of the child, consideration could be given to making recourse to mediation mandatory before any return proceedings.

- **Rethinking mediation to take into account the psychology of the parties**

The state of mind of the parties to a family conflict, *ab initio*, makes them unlikely to resort to a peaceful means of resolution such as mediation. Mediation practitioners insist on the accompanying measures that should be deployed, in parallel with mediation or ideally prior to it, to "put the parties in a position" to accept and succeed in their international family mediation: enhanced mediation, parental coordination, etc. These measures require time and significant resources, which are not always compatible with the perception sometimes held of mediation as a means of reducing legal costs.

3.2. Improving the quality of mediation

The mistrust of international mediation expressed by some judicial actors is often justified by the insufficient "quality" of mediation.

The authors of this report are obviously unable to determine whether this feeling is justified, but even if it were only a subjective perception, it would nonetheless constitute a significant obstacle to the development of mediation, an obstacle that should therefore be removed. To this end, various avenues could be explored.

- **Review the list of international mediators proposed by the DEDIPE.**

This list is currently perceived as insufficiently reliable: the mediators on the list are not always available or do not always comply with the announced agreement; above all, the information on the list does not always allow for a proper assessment of the mediators' suitability for the mediation in question.

- **Rethink the lists of mediators approved by the Court of Appeal.**

At present, these lists do not contain the necessary information (dual culture, language skills, training in international mediation) to enable the parties/lawyers/judges to identify one or more mediators who are well suited to the international family mediations envisaged.

- **Strengthen the place of training in international mediation in the training framework for family mediators in France**.

The current training framework for family mediators, as provided for in the decree of March 19, 2012, relating to the state diploma for family mediators, recently amended by the decree of June 4, 2024, does not completely ignore international mediation, since Annex III of the decree includes, in the content of the "Main training unit on the mediation process and the integration of mediation techniques," "international and intercultural family mediation." However, it should be noted that this is only one of 13 items to which the framework requires a total of 210 hours of training. There is therefore no guarantee that real training in international mediation will be provided. While international family mediation diplomas are available on the market, a **genuine reference framework specific to international family mediation**, possibly designed at European level, could be developed.

- **Consider tools to facilitate the establishment of co-mediation.**

While co-mediation has been unanimously presented as a relevant solution for ensuring high-quality international family mediation, judicial actors feel ill-equipped to implement it effectively. The main challenge would be to enable judges or parties and their counsel to easily identify mediators in both countries concerned. The circulation of information on mediators qualified in international family matters in each Member State would therefore be particularly useful.

3.3. Facilitating the use of mediation in judicial proceedings

This would involve recognizing the central role that judges can and must play in the use of mediation, which would include:

- **Conceptualizing and formalizing the appropriate moments for considering mediation in legal proceedings**, and widely disseminating this information to judges.

In particular, mediation should not necessarily be seen as an "alternative" to judicial proceedings, but rather as a "complement" to them. Mediation could thus be organized after a legal claim has been filed, where possible to settle the dispute before the judge intervenes, or *at a minimum* to organize provisional measures to prevent the child from being separated from one of its parents.

- **Strengthening judges' acculturation to mediation**

Training could be further developed and should also be considered in conjunction with other actors (lawyers, mediators) to facilitate their cooperation.

- **Providing courts with the means to enable them to deploy international family mediation**

International family mediation is a complex mechanism that requires human resources (judges and court clerks), but not only that; judges need effective tools if they are to be able to use it. The idea of a "kit" for judges has been raised on several occasions by judicial actors: there should be, if not within the DEDIPE, then at least within the Ministry of Foreign Affairs or a "central" court, a pool of mediators who are properly trained in international family mediation and to whom judges can quickly turn when needed. Statistical monitoring tools are also needed to ensure proper management and to measure the effectiveness of the system.

- **Strengthening international judicial cooperation to promote mediation**.

The diversity of legislation and cultures in the field of mediation, including between EU Member States, makes it difficult to develop international mediation in family matters. While standardization still seems a long way off, mechanisms to strengthen international cooperation should, at the very least, be considered.

APPENDIX

List of people interviewed

Frédérique Agostini
Conseillère à la 1re Chambre civile de la Cour de cassation, Présidente du Conseil national de la médiation, Présidente du Groupement européen des magistrats pour la médiation (GEMME).

Gulnar Amengual
Médiatrice, Parenthèse Médiation

Agathe Beaupère
Avocate au barreau de Paris, médiatrice en formation

Alexandre Boiché
Avocat à la Cour d'appel de Paris.

Amélie Demange
Magistrate, DEDIPE (avec Adeline Jauneau, auditrice de justice, DEDIPE)

Anne Dupuy
Présidente de Chambre, Cour d'appel de Paris

Maximin de Fontmichel
Professeur de droit privé, Université Paris Saclay, UVSQ, spécialiste des modes alternatifs de règlement des litiges

Natalie Fricero
Professeur émerite de l'Université Nice Côte d'Azur, Doyenne du Pôle Justice à l'ENM, membre du Conseil national de la médiation, ambassadrice de l'amiable (juin 2023-2024), ancien membre du CSM.

Coralie Gaffinel
Avocate, cabinet Accordance (avec Appoline Duclos-Piette, avocate stagiaire, ancienne stagiaire de la DEDIPE)

Danièle Ganancia

Médiatrice, ancienne magistrate, médiatrice rattachée à la DEDIPE jusqu'en 2006.

Stéphanie Hébrard
Vice-Présidente du Tribunal judiciaire de Paris

Florence Hermitte
Conseillère à la Cour d'appel de Paris

Nancy Khawan
Ancienne barrister spécialisée en droit de la famille internationale ; médiatrice en GB depuis 2015, future médiatrice en France.

Marie Lambling
Conseillère à la Cour d'appel de Paris

Jacqueline Lesbros
Présidente de Chambre, Cour d'appel de Versailles

Alice Meier Bourdeau
Avocate au Conseil d'Etat et à la Cour de cassation

Sandrine Pepit
Directrice DU SSI France, assistée d'Amine Doumi, chargée de mission, et Noa Laguerre, stagiaire, SSI International (Droit d'enfance, 116000 enfants disparus)