Co-funded by the European Union

JUST-2024-JCOO
Action grants to promote judicial cooperation in civil and criminal matters
JUSTICE PROGRAMME
GA No. 101192457

Better judicial cooperation and family mediation in international child abduction cases
iCare2

Transnational Report and EU Guidelines

Funded by the European Union. Views and opinions expressed are however those of the author(s) only and do not necessarily reflect those of the European Union or [name of the granting authority]. Neither the European Union nor the granting authority can be held responsible for them.

The part of the project carried out by Jagiellonian University (Poland) is co-financed by the Polish Ministry of Science and Higher Education within the framework of the program titled Co-Financed International Projects.

Project co-funded by the European Commission with the JUST Programme		
Dissemination Level:		
PU		X
CO		
EU-RES		
EU-CON		
EU-SEC		
Document version control		
Version	Author	Date
Version 1	Laura Carpaneto and Francesca Maoli	15.10. 2025
Version1.1	Laura Carpaneto and Francesca Maoli	28.10. 2025
Version 2		

Transnational Report on International Family Mediation in Child Abduction Cases

Table of contents

Introduction – the scope of the present transnational report

The present transnational report relies on the research findings in the National Reports of the iCare2 project, concerning the legal systems of Italy, Poland, Bulgaria, and France.

The research undertaken under iCare2 focuses on **international family mediation (IFM) in the context of international child abduction**. It aims at supporting the implementation of the Regulation (EU) 2019/1111 (hereinafter, also Brussels IIb Regulation)[1], in particular in the four mentioned countries.

International child abduction refers to situations where a parent removes the own child – or children – to another State, or retains them there, without the consent of the other parent. It typically occurs when families are in crisis and are often related to family members being spread across or having ties to more than one country. Having recognized the complexity and significant scale of the phenomenon, the international community has developed standards and procedures for addressing them. Even though a legislative framework exists at the international and European levels[2], preventing and responding to international child abduction remains a challenge.

In particular, the Brussels IIb Regulation has strengthened the role of family mediation in cross-border disputes and explicitly promotes it during proceedings for the return of a child in cases of international abduction. In particular, the Regulation has introduced a specific provision dedicated to family mediation, Article 25[3]:

"Alternative dispute resolution - *As early as possible and at any stage of the proceedings, the court either directly or, where appropriate, with the assistance of the Central Authorities, shall invite the parties to consider whether they are willing to engage in mediation or other means of alternative dispute resolution, unless this is contrary to the best interests of the child, it is not appropriate in the particular case or would unduly delay the proceedings*".

---

[1] 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), OJ L 178, 2.7.2019, pp. 1–115.

[2] See in detail the *Methodology and orientations for mediation in international child abduction*, developed and updated within the activities of the iCare projects, second edition 2025.

[3] See T. Kruger, *Article 25 – Alternative dispute resolution*, in C. González Beilfuss, L. Carpaneto, T. Kruger, I. Pretelli, M. Župan, *Jurisdiction, Recognition and Enforcement in Matrimonial and Parental Responsibility Matters. A Commentary on Regulation 2019/1111 (Brussels IIb)*, Cheltenham, 2023, p. 258.

It is worth highlighting that Article 25 of the Brussels IIb Regulation, as any other provision of the instrument, needs to be read in the light of the fundamental principle of the best interests of the child, which informs the interpretation and application of the Regulation, as results from its recitals. Moreover, in line with the human rights standards, the Brussels IIb Regulation expressly states the "right of the child to express his or her views" establishing that the "child who is capable of forming his or her own views" shall be given "a genuine and effective opportunity to express his or her views, either directly, or through a representative or an appropriate body" (Article 21), which applies to all cross-border proceedings concerning parental responsibility. Such right is expressly recalled by Article 26 of the new Regulation, in the context of return proceedings following an international child abduction. Therefore, to ensure that a mediated agreement has legal effect, the child's right to be heard has to be respected in accordance with the applicable legal frameworks[4].

Despite the momentum provided at supranational level, the practical implementation of this instrument has been uneven across different national legal systems. The four National Reports contain i) a legal analysis of the national legal framework on IFM; ii) an analysis of the current practice in the national legal system concerned of IFM, also describing the results of consultations/interviews undertaken with mediation services, judges, lawyers); iii) an analysis on the existence of pre-mediation services in the country, their legal framework and their current practice.

Each of the national research highlighted the strengths and weaknesses of IFM in the country concerned. The present Transnational Report has the scope to undertake a **comparative analysis** of the results of the national research, in order to understand how IFM is effectively implemented in each country. At the same time, the Transnational Report aims at assessing whether the domestic systems respect the **standards provided by Article 25** of the Regulation (EU) 2019/1111. With a focus on pre-mediation, the Transnational Report also contains a **map of pre-mediation services** currently available in the countries concerned.

Lastly, the **EU Guidelines** on International Family Mediation, elaborated in the light of the international and EU (human rights) standards and the provisions of Article 25 Regulation 2019/1111, thus contributing to the further development of best practices in IFM.

The Transnational Report and the EU Guidelines need to be read in closest synergy with the iCare2 Methodology on Pre-Mediation Desks, as well as with the European

[4] See *Methodology and orientations for mediation in international child abduction*, cit., Chapter 4 - The child's right to be heard: enabling child participation in mediation, p. 28.

and national Methodologies on and orientations for mediation in international child abduction[5].

Overall, a central goal of iCare2 is to promote a "culture of family mediation" that is child-rights-based and gender-sensitive, ensuring the long-term adoption of IFM in international child abduction cases in full respect of the best interests of the child.

[5] All the resources are available on the iCare2 official website, at https://project-icare.eu/deliverables-icare2/.

A comparative analysis on national IFM systems

The national research on four Member States (Italy, Bulgaria, France and Poland) highlighted strengths and weaknesses of each legal system: albeit not supporting a European-wide picture, the analysis shows that national legislations and practices are in the process of promoting IFM as a valid tool to manage family disputes.

The present research focuses on international child abduction: while analysing the existence and use of IFM in this specific scenario, it was indeed considered that (I)FM is still in the process of finding a stable and consolidated role in civil proceedings in family matters, at least in the countries considered. At the same time, this assumption is not true for all EU Member States: there are other contexts, such as in The Netherlands[6] and Ireland[7], where family mediation is structurally present in the judicial and extra-judicial system and represent an accessible service for families in conflict.

The research on the four legal systems concerned was based on a common structure, which highlighted the main characteristics of the legal framework and of the current practices at the national level. Therefore, the present comparative report will be based on the same structure, highlighting relevant sub-topics.

The role of family mediation in national (procedural) law

From the national research, it emerged that each of the considered legal systems now incorporate provisions on family mediation in its civil (procedural) law, which results to be an expression of the growing attention towards family mediation in resolving family disputes in general. In all those cases, family mediation is maintained as an optional solution for the parties, but institutionally embedded, with the judge playing an active role in encouraging it while respecting party autonomy.

In France, Article 1071 of the Code of Civil Procedure (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

[6] Reference is made to the International Child Abduction Center (Center IKO) in The Netherlands, at https://kinderontvoering.org/en/.

[7] D. Sweeney, M. Lloyd (eds.), *Mediation in focus: a celebration of the Family Mediation Service in Ireland*, Dublin, 2011. The official website of the Irish Family Mediation Service, provided by the Legal Aid Board, is https://www.legalaidboard.ie/our-family-mediation-service/.

and, after obtaining the agreement of the parties, appoint a family mediator to carry it out".

In Bulgaria, Article 140(3) of the Code of Civil Procedures allows judges at the initial hearing to suggest mediation or an amicable settlement and to suspend proceedings to make it possible. This possibility is entirely discretionary, as judges have no obligation to make such referrals. The effectiveness of mediation therefore depends largely on judicial practice and the willingness of the parties. The Bulgarian Family Code[8], on its side, further supports out-of-court settlements in matters such as divorce, custody, contact rights, and parental authority. For instance, when disputes over parental responsibility occur, the Code enables the parties to reach an agreement through mediation which once approved by the court, becomes legally binding.

In Poland, according to Article 10 of the Code of Civil Procedure (as amended in 2005, "in cases in which settlement is permissible, the court shall seek, in any state of proceedings, to settle them amicably, in particular by inviting the parties to mediation". Article 58, paragraph 1, of the Family and Guardianship Code was amended in 2008, by referring to the agreement between spouses on parental responsibility (including mediation agreement):

"In the judgment pronouncing divorce, the court shall decide on the parental authority over the joint minor child of both spouses and the parents' contact with the child and shall rule on the amount by which each spouse is obliged to bear the costs of the child's maintenance and upbringing. The court shall consider the agreement of the spouses on how to exercise parental authority and maintain contact with the child after the divorce if it is in the child's best interests. Siblings shall be brought up together, unless the best interests of the child require otherwise".

Italy, following Legislative Decree No. 149/2022 ("Cartabia Reform"), has introduced a unified procedure for all matters concerning persons, minors, and families. The amended Article 316 of the Civil Code obliges the judge to hear the parents and attempt to reach an agreed solution before deciding unilaterally. Within the new procedural framework, Article 473-bis.10 of the Code of Civil Procedure allows the judge to invite the parties to family mediation, and Article 473-bis.14 ensures that information on the possibility of mediation is included in the decree setting the first hearing. Mediation therefore remains voluntary but is integrated structurally from the outset of the proceedings.

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

Overall, France and Italy permit but do not require judicial referral to mediation, though Italy incorporates information and access to mediation at the very first procedural step. Bulgaria allows referral entirely at the judge's discretion. Poland stands out by imposing a general duty on courts to seek amicable resolution and to promote mediation throughout the entire course of proceedings.

The voluntary nature of the family mediation process

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. However, a number of countries have introduced different models and there have been some legislative proposals aimed at introducing at least the obligation which results in the parties at least be provided an information session about mediation.

The research on the countries considered by the iCare2 project shows a common foundation in the voluntary character of mediation, yet each country structures judicial involvement and information obligations differently, as mentioned above.

In France, mediation is never compulsory. Courts cannot oblige parties to mediate but may order them to meet a mediator for the sole purpose of receiving information about mediation. This preserves full voluntariness while allowing judges to introduce parties to the option.

In Bulgaria, the Mediation Act emphasizes voluntariness, allowing parties to enter or leave the process freely and preventing courts from compelling any settlement. Confidentiality protections are particularly strict, extending to mediators, parties, and third persons. A legislative reform is under consideration that would introduce a mandatory information session, signaling a possible shift toward stronger judicial steering without compromising the voluntary nature of the mediation itself. The draft legislation on mandatory mediation explicitly limits its application to certain family disputes[9] 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.

In Poland, mediation also remains voluntary, whether initiated by agreement between the parties or via a court order referring them to mediation. Judges may summon parties to an information meeting on amicable dispute resolution, including

[9] § 8 of the Bulgarian Act for the Amendment and Supplementation of the Civil Procedure Code.

mediation. The information meeting may be conducted by a judge, court clerk, court official, judge's assistant or permanent mediator. Even when courts issue an order directing parties to mediation, the process itself remains based on consent.

Italy currently follows a similar model, as courts in family proceedings may invite parties to attend an information session on family mediation but cannot oblige them to mediate. However, a pending reform (concerning Article 473-bis.10 Code of Civil Procedure) proposes a more structured preliminary phase: in disputes over shared custody, parties would be required, before applying to the court, except in urgent cases, to contact a mediation body or mediator for information about the suitability of a mediation pathway. The first meeting would be free of charge and could be held separately, and the proceedings could still begin if only one parent complies. This reform would create a mandatory pre-mediation information stage, positioning Italy closer to the proposed Bulgarian model while keeping the actual mediation process voluntary.

Provisions supporting the application of Article 25 Brussels IIb Regulation

As it is known, the Brussels IIb Regulation is directly applicable in the national legal systems of the Member States and no implementation provision is required for its operativity and application by national authorities and private bodies/persons. At the same time, national provisions may have the role of supporting and fostering the correct and effective application of EU secondary law. Even if national provisions do not need to be *explicitly* linked to Article 25 of the Brussels IIb Regulation, an analysis of any national legislative evolution following the entry into force of the Regulation may provide a more complete view, in practice, of the current application of EU law.

A comparison of the four countries considered by the iCare2 research shows divergent levels of legislative engagement with Article 25 Brussels IIb and varying degrees of institutional support for International Family Mediation.

In France there results to be no provisions directly or indirectly connected to Article 25 Brussels IIb Regulation. Although mediation can be encouraged in domestic family law, it seems that no national measures were introduced to operationalize Article 25, and its implementation relies entirely on the direct applicability of the Regulation.

Bulgaria, while also relying on the direct applicability of the Brussels IIb Regulation, has experienced practical difficulties precisely because no national measures

accompanied the Regulation's entry into force. Awareness and implementation remain uneven. The amended Bulgarian Child Protection Act now regulates proceedings concerning child return and access rights and encourages courts to support voluntary dispute resolution, including mediation, at any stage provided this does not jeopardize the strict procedural time limits under Article 24(2) of the Regulation. The overall framework, however, still lacks systematic national guidance, which affects consistency in cross-border cases.

Poland already possessed a mature system of court-referred mediation when the Brussels IIb Regulation entered into force, making legislative amendments unnecessary. The Regulation nevertheless produced an indirect but significant effect by elevating the role of mediation in cross-border family matters. Polish courts have become more inclined to suspend proceedings to allow mediation in cases involving parents in different EU countries, and the Central Authority increasingly proposes mediation in child-abduction situations. Training materials and professional guidelines now place greater emphasis on the international dimension of mediation and on compliance with Article 25, strengthening coherence between domestic practice and the Regulation's objectives.

Italy has not adopted provisions explicitly linked to Article 25 either, but recent years have seen a strong institutional shift toward embedding mediation within family proceedings involving children. This policy direction has favored the development of national instruments that, although not formally transposing Article 25, support its practical implementation. The Italian Central Authority has issued detailed Guidelines on the transmission of requests under several provisions of the Brussels IIb Regulation, including Article 25[10]. These Guidelines clarify the broad applicability of Article 25 throughout all stages of return proceedings before Juvenile Courts and in any parental-responsibility case with cross-border elements. They also outline the Central Authority's role in facilitating preventive international family mediation before judicial proceedings begin, as well as its ability to assist judges by identifying suitable cross-border mediators and providing information for the parties.

The specificities of International Family Mediation (IFM)

Although to varying degrees, the specific characteristics of IFM are not always given independent consideration in the legislation and practice of the Member States concerned. A comparison of the four jurisdictions shows that each approach IFM in a distinct way, ranging from the absence of targeted provisions to the existence of

[10] Guidelines for the transmission of requests under Articles 25, 27, 29, 80 e 82 of the Brussels II-ter regulation, available at https://www.giustizia.it/giustizia/page/it/richieste_alle_autorita_centrali.

explicit legal frameworks. Accordingly, a specific practice on IFM in the context of international child abductions does not seem to be developing yet.

France has no specific legal provisions governing international family mediation or mediation in cases of international child abduction. The only relevant rule concerns the role of the Central Authority[11], which must transmit return requests to the competent public prosecutor. That prosecutor is then responsible for taking measures to secure the child's voluntary return and may seek an amicable solution by engaging with the taking parent. Despite this, France has no statutory structure for mediation in cross-border parental disputes.

Bulgaria, by contrast, has a comprehensive Mediation Act that clearly encompasses cross-border disputes. Mediation is defined as a voluntary and confidential process facilitated by a neutral third party, and the Act expressly includes disputes in which at least one party is domiciled or habitually resident in another EU Member State[12]. This framework, however, is limited to intra-EU cross-border cases. Although the Bulgarian Family Code allows parties to settle parental responsibility disputes through mediation, it does not specifically address international child abduction or cross-border parental conflicts, leaving a gap between the general mediation regime and its application to abduction cases.

Poland regulates mediation in civil matters through the Code of Civil Procedure (from 2005), but these provisions do not distinguish between domestic, family, or international mediation, meaning the same legal basis applies automatically to international family mediation. The statutory framework for mediation, set out in Articles 183^{1}–183^{15}, is therefore broad and neutral, ensuring that IFM falls within the ordinary civil mediation regime.

Lastly, Italy likewise lacks a specific legal regime dedicated to international family mediation. The "Cartabia Reform" of 2022 strengthened family mediation in general but does not extend to proceedings governed by special laws, including return proceedings under the 1980 Hague Convention or EU law. As mentioned, even though the reform does not directly apply, many of its innovations indirectly influence international child abduction cases by reinforcing the culture and availability of mediation within family disputes more broadly.

[11] Article L. 211-12 of the French Code of Civil Procedure.
[12] Article 3 of the Bulgarian Mediation Act and Paragraph 1 of the Supplementary Provisions of the Mediation Act.

Qualification and training of family mediators, with specific reference to IFM

A comparison of the four countries considered reveals some differences in how training for family mediators is structured and in the extent to which IFM is recognized within national qualification frameworks.

As concerns, the French legal system, family mediators hold a State diploma disciplined by a decree of 19th March 2012 (recently amended in 2024)[13]. The current training framework for family mediators 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", as well as "international and intercultural family mediation". However, it is 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.

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 2007[14]. 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 organization 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 specialization in any specific area, such as family mediation. The regime does not impose mandatory specialization for family or international mediation. Since cross-border disputes are explicitly covered by the Mediation Act, the national research highlights that the lack of specialized training requirements is particularly evident in cases with international dimensions.

[13] JORF n°0076 du 29 mars 2012.

[14] 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.

Similarly, Poland applies uniform rules to all mediators, meaning international family mediators are subject to the same qualifications as domestic mediators. At the same time, the Ministry of Justice instituted an advisory body (the Social Council for Alternative Dispute Resolution), which drafts guidelines and recommendations in the form of resolutions (*uchwała*) on topics related to mediation. The Resolution No 1/2023 of 23 March 2023 r. on Standards of Training of Mediators explains in its introductory part that there is "the lack of legally defined standards for mediator training", and therefore, the resolution is needed to "ensure a high level of education for mediators and to professionalize the profession". The resolution: i) foresees a basic training (of 40 teaching hours) providing fundamental knowledge and skills in mediation and a specialized training; ii) provides that the specialized training in mediation in family matters (of 60 teaching hours) should include, among others, a list of topics such as, for instance, family psychology, the perspective of children in mediation, techniques for identifying the needs of the parties to the mediation and other persons affected by the conflict, family law and proceedings, etc.; iii) governs who can be the trainer within the basic and specialized training, how the training should be help, the recommended form of training (for example, lectures should not exceed 10% of the time of the training) and recommended didactic methods (for example, simulations of mediations). Some mediation centers adopt even higher standards than those recommended, but these efforts remain voluntary rather than legally mandated.

Italy, following the Cartabia Reform and Presidential Decree No. 151/2023, has introduced detailed professional requirements for family mediators, covering integrity, certified professionalism, and both initial and continuous training. The training programs are delivered by institutions recognized by professional associations in accordance with Law No. 4 of 2013. The decree also specifies the requirements that must be met by those who carry out training activities. The course must consist of no fewer than 240 hours, including both theoretical instruction and practical exercises, with at least 80 hours dedicated to guided practice with a trainer with many years' experiences as a family mediator, of which at least 40 hours of practical mediation activities under supervision. The curriculum of the course must address psychological, legal, and communicative aspects pertinent to family relationships and conflict management. It is expressly provided that a specific training module must be dedicated to "the protection of persons of minor age". The final examination process is also considerably structured, combining written, practical, and oral components. The Decree does not contain any indication of certified specializations (such as international family mediation), which nevertheless form part of the training programmes of many schools which refer to the main professional associations of family mediators. However, despite this specialization

being indicated in the statute and regulations defining the educational offerings of the associations, in practice very few specialized courses result to have been activated in recent years.

Fundamental rights of children, child participation and best interests of the child in IFM

All the countries concerned promote family mediation – or have started to introduce family mediation within the national legal framework – in light of the fact that this instrument is better suited to effectively promote the best interests of the children involved in family disputes. At the same time, the principle of the best interests of the child seems not yet incorporated in a structured way in the national methodologies of (international) family mediation.

The same is true for child participation within the family mediation process, which is often linked to the techniques used by each mediator: while some mediators effectively include children in the process, in different ways, there seems to be no general provisions and practice providing for a stable and structured child participation, albeit with the necessary parameters and safeguards (such as the ones that are in place in the context of judicial proceedings).

In France, as the proponent of a public policy that is generally favorable to family mediation, the French Ministry of Justice naturally supports the use of this ADR mechanism, 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. However, no structured methodology seems to exist on how to effectively provide to the best interests of the child a central role in mediation proceedings. Special provisions on child protection are to be found in matters of educational assistance: according to Article 1189-1 of the French Code of Civil Procedure, the purpose of family mediation in educational assistance, ordered by the children's judge, is to "*help parents put an end to their conflict, which is contributing to a situation of danger for the child*". 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.)". Another derogation concerns the approval or "homologation" of the agreement, since it is provided that the judge, before approving the agreement, must ensure that it has been freely

entered into by the parents, and that it "sufficiently safeguards the interests of the child".

Accordingly, no rules or established practices seems to exists in France as concerns child participation in the mediation process, even though it results that some mediators are inclined to include children in mediation, depending on the circumstances of the specific case. Again, in matters of educational assistance, Article 1189-1 of the French Code of Civil Procedure sets up a special regime and provides that the mediator is allowed to hear a child who consents, subject to the parents' agreement and the child's best interests.

In Bulgaria, courts should only approve a mediation agreement if it fully respects the best interests of the child. Although not explicitly stated, this principle is indirectly reflected in Article 18(3) of the Bulgarian 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.

As concerns child participation, it has been reported that child participation in family mediation in Bulgaria is still rare and marked by a lack of clear, consistent practice. The Bulgarian 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. However, there are no equivalent guidelines when it comes to mediation, and this legal framework is sometimes used by analogy. Overall, it is stated that child participation in family mediation remains more an exception than a rule. 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. 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 Child[15], which 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 standardized model for interviewing children, which is used as part of the process for resolving parental disputes.

In Poland, Article 58 § 1 of the Family and Guardianship Code provides that the court should consider the agreement on the exercise of parental authority drafted by the parents, if it is in the child's best interests. The principle plays a fundamental role in the interpretation of all substantive as well as procedural law provisions concerning the child.

As concerns child participation, the Polish Code of Civil Procedure regulates mediation in general in Articles 183^{1}–183^{15} but does not provide detailed rules on the involvement of children in mediation and does not mention the best interest of the child in that respect. The law allows the court to refer the parties to mediation but remains silent about whether and how the child's views or interests should be actively represented or included in the process. In practice, whether and how children are involved in family mediation, especially IFM, depends on the mediator's training and approach. Mediators trained in international family mediation are more likely to include the child's perspective, either indirectly (through parental reflection exercises or child-focused methods), or via child-inclusive mediation models, involving a trained child consultant who speaks with the child and conveys their views. There is also no legal obligation to inform the child about the mediation or its outcome. Mediators may, on a case-by-case basis, encourage parents to discuss the process with the child in an age-appropriate way or/and involve child psychologists or counselors if needed. As a result, in Polish practice mediation remains parent-centered, children's voices are usually considered indirectly, and there is limited experience and infrastructure for child-inclusive or child-directed mediation in cross-border cases. Children are not routinely heard or informed in mediation, their participation is rather rare and informal, though international training and standards are influencing change, especially in cross-border family mediation.

In Italy, the legal framework does not directly or explicitly link family mediation to the best interests' principle, which nevertheless remains a general and overarching principle in all situations concerning a child.

[15] 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-детето.pdf.

Accordingly, in Italy there are no specific rules as concerns information and participation of children in the mediation process. As concerns the practice, the various mediation models differ. The large majority excludes direct participation of children, and therefore no contact is foreseen between them and the mediator. The reason is that children are seen as constantly "present" in the mediation room: the mediator actively contributes to recreating the virtual presence of the child. Some models actually include children in mediation, at different stages. There are mediators adhering to the systemic model which invite the child at the first or second meeting, together with the parents. There are multiple reasons sustaining the opportunity of this participation: i) to let the parents acknowledge the resonance of the conflict on the children, with possible effects of mitigation of the tension between them; ii) to enable the mediator to gain a better knowledge of the family context; iii) to enable the children to listen to the story of their parents, acknowledging a "before" and "after" the crisis and acquiring a sense of evolution of the family; iv) most importantly, to give the children some information about the mediation and to relieve children from the role of third parties in the conflict between parents. For instance – as concerns this last aspect – the mediator may tell the child that the parents have decided to address the disputes between them by undertaking a mediation process and that, from this moment on, the child does not have any responsibility in managing this conflict.

Overall, it is especially the fragmented practice which suggests the opportunity to promote a common methodology and guidelines to effectively construe a (international) family mediation tailored on the rights and interests of the children involved.

The legal value of the mediated agreement

In the vast majority of cases – and as it results from the research on the countries concerned – if the parents reach an agreement, the latter would need to be homologated by a judicial body, or incorporated into a judicial decision, in order to be provided with legal and binding effects. At the same time, in all the countries concerned this not seems to happen through a clear and consolidated practice. There are markedly different mechanisms and levels of judicial control. This results to be particularly true in the context of international child abduction, where an agreement reached through IFM does not always hold a clear legal status.

In France, once the parties reach an agreement, they may submit it to a judge at any time, and approval automatically gives the agreement enforceable status. The judge

rules without adversarial debate unless a hearing is deemed necessary, and the procedure remains non-contentious even in that case.

In Bulgaria, the Civil Procedure Code allows mediation settlements to be formally confirmed by a court, after which they carry the same weight as a judgment. Judicial approval is not automatic: the court must verify that the agreement does not violate mandatory law or public policy, meaning the enforceability of mediated settlements depends on substantive legal scrutiny rather than simple procedural validation.

In Poland, the mediator records the essential details of the process and incorporates or attaches the settlement if one is reached. The parties sign the settlement and thereby agree to seek judicial approval; the mediator must inform them of this obligation. Enforceability therefore arises only after the court validates the settlement, but the process emphasizes party autonomy and documentation rather than extensive judicial review.

Again, the aforementioned practice in France, Bulgaria and Poland does not address international child abduction cases, on which therefore there not seem to be consolidated data. In this regard, however, the position of Italy is interesting: some interviewed professionals have shared the general approach followed by some courts: agreements reached by the parties influence the outcome of the proceedings. In practice, the agreement concluded by the parties results to be taken into account in child abduction cases as well, by taking note of this circumstance in the decree which declares the "*non luogo a procedere*" (no case to answer). Therefore, the procedure is closed when left-behind parent and the abducting parents have found a common solution and, possibly, have provided enough guarantees on the effective respect of the agreement.

Here, two situations may arise:

- If the agreement provides for the return of the child (and the child effectively comes back to his/her habitual residence), it will be for the competent courts to define any aspect concerning the substance of parental responsibility.
- If the agreement provides for the non-return of the child, it could be possible for the court to activate the monitoring of social services over the well-being of the child in the long term. In this case, there is nevertheless a substantial difference between "intra-EU" and "extra-EU" cases.

Domestic violence

International family mediation faces particular difficulties when domestic violence is alleged or suspected. Organizations offering international family mediation services such as MiKK have long emphasized that cross-border cases often involve complex

power imbalances, safety concerns, and communication barriers, which make the identification of violence and the protection of victims especially challenging. Their practice shows that mediation may be feasible only when rigorous screening, strict safeguards, and specialized mediators are in place.

Against this background, the four national systems differ significantly in how they regulate or restrict mediation in situations involving domestic violence.

In France, mediation is excluded whenever one parent alleges violence against the other or against the child, or when there are indications of "manifest control" within the couple. This latter notion, introduced in 2020 to strengthen victim protection, remains debated because of its vagueness. The exclusion applies automatically and leaves little room for case-by-case assessment.

Bulgaria also restricts mediation but in a more conditional manner. The Bulgarian Law on Protection Against Domestic Violence[16] prevents courts from encouraging mediation or settlement, yet it does not impose a categorical prohibition on mediation itself. Mediation may occur only when both parties explicitly consent, when the violence has not impaired their ability to express their will freely, and when protective safeguards, such as the presence of lawyers, psychologists, or child protection professionals, are ensured. Because the Constitutional Court annulled recent attempts to introduce mandatory mediation together with an explicit domestic-violence exception[17], the current framework lacks clear guidance on how mediation should operate when signs of abuse are present.

Poland allows mediation in cases involving domestic violence in both domestic and international family disputes, but mediators are required to be extremely cautious. The law makes voluntariness, equality, and informed participation as essential conditions; mediators must terminate the process if coercion, intimidation, or significant power imbalances prevent fair participation. However, Polish law does not include systematic domestic-violence screening before mediation begins, and while the "Blue Card" procedure is a tool for detecting abuse, it is not integrated into the mediation framework. As a result, mediation is legally permissible but, in practice, discouraged when there are credible indications of violence.

Italy has introduced a much more detailed and restrictive set of rules through the Cartabia Reform. Within the new family proceedings, allegations of domestic or gender-based violence, regardless of whether criminal proceedings have already begun, trigger specific protective powers for judges. Most importantly, mediation is

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

[17] See the Bulgarian National Report, p. 11.

expressly prohibited when there has been a conviction, when criminal proceedings are pending for family-related violence, or when allegations of such conduct emerge during the proceedings. If violence comes to light after mediation has already started, the mediator must terminate the process immediately. Italy therefore treats the presence or even the emergence of allegations as a sufficient ground to block or end mediation. However, the new legal regime has not stopped the debate among legal professionals and mediators on how to correctly handle those cases.

The map of pre-mediation services in four EU countries

The existence and extent of pre-mediation services in Bulgaria, Poland, Italy and France

On the basis of the information gathered from the national research, diffused and stable presence of pre-mediation services is currently not available in the countries considered. The following list shows the pre-mediation services identified in each national territory, or similar services which are deemed comparable or close to pre-mediation, where present.
The blue boxes highlight the Pre-Mediation Desks launched within the iCare2 project.

BULGARIA
No formally recognised or legally codified stage termed pre-mediation seems to exist within the Bulgarian family-mediation process.
Some interviewed experts 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.

Pre-Mediation Desk in Bulgaria:

Law and Internet Foundation, Balgarska morava 54 Sofia-City 1303 Sofia.

Telephone: +359 2 44 606 44

Email: icare2@netlaw.bg

Website: https://www.netlaw.bg/en

How to contact the desk: First contact by email. Support provided on a weekly basis.

POLAND

An institution of "pre-mediation" within the iCare2 project's understanding is neither regulated in the Code of Civil Procedure nor another statute in Poland. Therefore, no formally recognized or legally codified stage termed pre-mediation seems to exist within the Polish family-mediation process.

There are, however, some "key players" among the various institutions promoting and offering mediation in Poland, which offer services which might be considered similar to pre-mediation.

- **The Polish Ministry of Justice promotes mediation in Poland**
  The Ministry acts, among others, through its advisory body - Social Council for Alternative Dispute Resolution by the Minister of Justice (Społeczna Rada do spraw Alternatywnych Metod Rozwiązywania Sporów przy Ministrze Sprawiedliwości). This body prepares guidelines and recommendations in the form of resolutions (uchwała) on topics related to mediation. However, no direct pre-mediation service is provided.
- **Polskie Centrum Mediacji**
- **Stowarzyszenie Mediatorów Rodzinnych**
- **Mediation Coordinator in each regional court (*sąd okręgowy*)** (Article 16a § 1 of the Law on the system of common courts)
  The Mediation Coordinator operates performing activities aimed at developing mediation, ensuring efficient communication between judges and mediators and permanent mediators, and cooperating in the organization of information meetings.

Pre-Mediation Desk in Poland:

Centrum Wsparcia i Mediacji, Faculty of Law and Administration of Adam Mickiewicz University, al. Niepodległości 53, 61-714 Poznań.

Telephone: 116 000

Email: cwim@zaginieni.pl

Website: porwaniarodzicielskie.pl

How to contact the desk: Contact by email, contact will be made via email, in justified cases the beneficiary will be asked to provide a telephone number, and the office will contact you by phone.

ITALY

No formally recognized or legally codified stage termed pre-mediation seems to exist within the Italian family-mediation process. There is no specific legislation dedicated to pre-mediation, whose definition is also not consistent in the general practice. Although most of the family mediation models acknowledge the need for a pre-mediation stage, no formally recognized or legally codified stage of this kind exists within the Italian family mediation process.

Pre-Mediation Desk in Italy:

Sportello di Pre-mediazione, **DCI Italy**, Piazza Don gallo, Genova.

Telephone: + 39 010 0899050

Email: serviziosociale@defenceforchildren.it

Website: https://www.defenceforchildren.it/it/news-465/icare-2.0

How to contact the desk: First contact by email. Support provided on a weekly basis.

FRANCE

- **International Social Service – SSI France**
  As part of the global network present in more than 120 countries, SSI France offers support to families in cross-border situation and also offers a pre-mediation service: in addition to providing information on the advantages of mediation, the office 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.
- **Caisse d'allocations familiales – Family Allowance Fund**
  The Caisse d'allocations familiales strives to promote access to mediation in cases of family disputes, providing information to families (through their website and available documentation) and offering practical services to facilitate families' access to mediation.
  When families consider mediation under the auspices of the CAF, they are entitled to an initial session 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.
- **The French Ministry of Justice and the French Central Authority**

The French Ministry of Justice naturally supports the use of family mediation, including in cases of international child abduction. The Ministry's 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.

On its side, the French central authority responsible for return (le Département de l'entraide, du droit international privé et européen (DEDIPE) of the Ministry of Justice) 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. To encourage mediation in cases of international child abduction, the DEDIPE has set up a special information system. The proceedings are slightly different 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.

Pre-Mediation Desk in France:

Droit d'Enfance, Service Social International France (SSI France).

Telephone: +33(0)1 83 01 00 70

Email: Iss-ssi-france@droitdenfance.org

Website: https://www.ssi-france.org/

How to contact the desk: First contact by email or by phone. Pre- mediation support provided on Wednesdays.