

AVOIDING ENFORCEMENT STRUGGLES

HOW MEDIATION CAN HELP IMPLEMENT
DECISIONS IN CROSS-BORDER FAMILY
DISPUTES CONCERNING CHILDREN



26TH - 27TH February 2015

Thon Europe Hotel – rue de la Loi 51 - 1000 Brussels

Each year, thousands of children worldwide are affected by cross-border family disputes. These disputes, if not solved appropriately, can threaten the children's rights to maintain personal relations and direct contact with both parents. Recognizing the advantages of resolving cross-border family disputes amicably, the relevant Hague Conventions and European legal instruments encourage the use of mediation and similar means.

Mediation can be useful at all stages of a family conflict: it can help to avoid the escalation of the dispute at an early stage; it can be used prior to court proceedings and while court proceedings are pending. But mediation can also be of considerable assistance when it comes to the implementation of a court decision rendered in a cross-border family conflict. When a parent refuses to comply with a decision on cross-border parent-child contact or, in the case of international child abduction, with the decision ordering the return of the child to the State of habitual residence, professionals involved in the enforcement process often face a dilemma: swift and efficient enforcement is necessary to protect the best interests of the child, however coercive measures risk traumatizing the child.

Child Focus (Belgium), MiKK (Germany), the Family Mediation Centre (Greece) and Asociación Madrileña de Mediadores (Spain) joined forces with the Cross-border Family Mediators' Network to create a mediation model assisting families in overcoming obstacles in the implementation of court decisions in cross-border family conflicts in cooperation with judicial, legal, mediation, and law enforcement representatives, as well as in consultation with the Hague Conference on Private International Law and a number of Central Authorities under the relevant Hague Conventions.

With this conference, project partners wish to address the challenges of mediation in the enforcement process. The conference will highlight the legal and psychological difficulties faced by families and professionals during the enforcement phase of decisions and show how mediation can help within the narrow and well-defined boundaries of this phase.

The conference aims to bring together professionals from different countries and professions such as lawyers, judges, bailiffs, family mediators, child experts... working in the field.



PROGRAM

FEBRUARY 26TH 2015

10.00am **Welcome**
Child Focus

10.15am **Opening address**
Mairead McGuinness – EP Mediator for International Child Abductions

Chair: Andrea Schulz

10.30am **Challenges to enforcing decisions in international family disputes**
Nigel Lowe, Cardiff Law School

11.00am **How does enforcement work in practice?**
Experiences from different legal systems and professions
UK – perspective of a lawyer
Anne-Marie Hutchinson, family lawyer, Dawson Cornwall
France – perspective of a Central Authority under the 1980 Hague Child Abduction Convention
Sophie Rodrigues, French Central Authority

11.40 **Coffee break**

Chair: Nigel Lowe

12.00 **Germany – perspective of a bailiff**
Markus Oegel, bailiff

12.20 **The European Court of Justice and the European Court of Human Rights jurisprudence**
Andrea Schulz, former Head of the German Central Authority under the 1980 Hague Child Abduction Convention

12.40 **Discussion**

1 pm **Lunch**

Potential of mediation to assist in the implementation of decisions in international family disputes & to avoid enforcement struggles

Chair: Hilde Demarré

2.15pm **Sociometry exercise – meet your colleagues from across Europe**

Jamie Walker, mediator & mediation trainer

2.45pm **Introduction to international family mediation**

Demonstration role play

3.45pm **Coffee break**

Chair: Ishtar Khalaf-Newsome

4pm **Parallel workshops on the potential and challenges facing mediation in the phase of implementing a decision:**

1. Topics addressed and mediator's tasks
2. Dealing with power imbalance between the parties
3. Motivating parents to enter mediation

5.15pm **Plenary discussion**

6pm **End of first conference day**

PROGRAM

FEBRUARY 27TH 2015

Chair: Spiros Livadopoulos

9am **Summary of interview findings concerning the potential and the challenges of mediation in the enforcement phase**

Jamie Walker & Juliane Hirsch, international legal consultant

9.30am **Analysis of the psychological mindset of families involved in the enforcement of a return decision in an international child abduction case**

Birgitte Beelen, child and adolescent psychologist, systemic therapist and international family mediator

10am **Discussion**

10.20am **Introduction of a mediation model for enforcement cases**

Jamie Walker & Juliane Hirsch

10.40am **Coffee break**

Chair: Anusheh Rafi

11.00am **Workshops on mediation from the perspective of all involved parties (parents, child & stakeholders):**

- work in professional groups
- interdisciplinary work

12.20 **Plenary discussion**

1pm **Lunch break**

Chair: Anne-Marie Hutchinson

2.15pm **The work undertaken by the Hague Conference on Private International Law in promoting international family mediation**

Kerstin Bartsch - Senior Legal Officer – Hague Conference on Private International Law

2.45pm **Case report**

Dirk De Waele, Deputy Attorney General, Antwerp Court of Appeal
Karin Verbist, lawyer
Marleen Vaes, international family mediator

3.15pm **Final plenary discussion**

3.45pm **Closing remarks**

4pm **End of the conference**