

Procedure file

Basic information		
INI - Own-initiative procedure	2021/2060(INI)	Procedure completed
Protection of the rights of the child in civil, administrative and family law proceedings		
Subject 4.10.03 Child protection, children's rights 7.40.02 Judicial cooperation in civil and commercial matters		

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	 Legal Affairs	 VÁZQUEZ LÁZARA Adrián Shadow rapporteur	12/07/2021
		 ARIMONT Pascal	
		 CHINNICI Caterina	
		 BREYER Patrick	
		 LEBRETON Gilles	
		 AUBRY Manon	
	Committee for opinion	Rapporteur for opinion	Appointed
	 Petitions	 ŽDANOKA Tatjana	01/10/2021
European Commission	Commission DG Justice and Consumers	Commissioner REYNDERS Didier	

Key events			
20/05/2021	Committee referral announced in Parliament		
10/02/2022	Vote in committee		
23/02/2022	Committee report tabled for plenary	A9-0033/2022	Summary

04/04/2022	Debate in Parliament		
05/04/2022	Decision by Parliament	T9-0104/2022	Summary

Technical information	
Procedure reference	2021/2060(INI)
Procedure type	INI - Own-initiative procedure
Procedure subtype	Initiative
Legal basis	Rules of Procedure EP 54
Other legal basis	Rules of Procedure EP 159
Stage reached in procedure	Procedure completed
Committee dossier	JURI/9/06043

Documentation gateway					
Committee draft report		PE696.565	13/10/2021	EP	
Amendments tabled in committee		PE700.454	15/11/2021	EP	
Committee opinion	PETI	PE700.424	31/01/2022	EP	
Committee report tabled for plenary, single reading		A9-0033/2022	23/02/2022	EP	Summary
Text adopted by Parliament, single reading		T9-0104/2022	05/04/2022	EP	Summary

Protection of the rights of the child in civil, administrative and family law proceedings

The Committee on Legal Affairs adopted an own-initiative report by Adrián VÁZQUEZ LÁZARA (Renew Europe, ES) on the protection of the rights of the child in civil, administrative and family law proceedings.

Child-friendly justice

An increasing number of children and adolescents are coming into contact with the judicial system in civil, administrative and family law proceedings, mainly due to the increase in divorce, separation and adoption. In such proceedings, all children should be guaranteed non-discriminatory access to justice.

The report called on the Member States to ensure that in all proceedings concerning the child's well-being and future life arrangements, the rights of the child are respected, guaranteed and implemented in full, and the best interests of the child are given the highest priority and are duly incorporated and consistently applied in every action taken by public institutions, especially in judicial proceedings, which has a direct or indirect impact on children.

Members recalled that access to justice and the right to be heard are fundamental rights and that every child, irrespective of their social, economic or ethnic background, must be able to fully enjoy those rights in a personal capacity, independent of their parents or legal guardians.

Member States are called upon to:

- ensure easily accessible, understandable, comprehensive and child-friendly information on the rights of the child in civil, administrative and family law proceedings and the proceedings themselves, including those of a cross-border nature;
- enable access to free, publicly-funded, high-quality legal representation for children involved in civil, administrative and family disputes, including those of a cross-border nature;
- set up easily accessible, high-quality, personalised, free and publicly-funded advisory and child support services to provide, where necessary, the support of trained professionals and to provide the best support for the child throughout all stages of the proceedings;
- provide mandatory training courses on the rights and specific needs of the child for judges, other legal professionals and all other relevant parties involved in court and administrative proceedings concerning children;
- make sufficient resources available to ensure that civil, administrative and family law proceedings involving children are handled with the utmost compliance with the standards of child-friendly justice, with appropriate respect for the child's emotional and physical integrity, and without undue delay.

An EU framework for the protection of the rights of the child in cross-border civil disputes

The number of children born into families with a cross-border element is expected to increase with increased mobility. Although substantive civil law and family law remain within the competence of the Member States, it should be possible to establish harmonised rules on cross-border civil and family law at Union level.

Member States are called upon to:

- protect the best interests of the child in cross-border family proceedings, including by ensuring that laws and procedures do not discriminate between the parents on the basis of their nationality, country of residence or otherwise, and by refusing the assumption that the best interest of the child is always to remain within a particular Member States territory;
- respect the right of each child to maintain personal and direct contact with each parent, unless it is against the best interests of the child;
- effectively enforce judgments in cross-border family disputes concerning children in line with applicable EU law and the judgments of the Court of Justice, especially in cases related to cross-border parental child abductions but also separation, divorce, custody, adoption and foster care and decisions related to the recognition of parenthood, including same-sex couples;
- properly implement the new rules and obligations under Council Regulation (EU) 2019/1111 on jurisdiction, the recognition and enforcement of decisions in matrimonial matters and the matters of parental responsibility, and on international child abduction;
- ensure that the financial costs of proceedings and additional costs inherent in cross-border cases are not a barrier to accessing justice in cross-border civil, administrative and family cases involving children.

The Commission is invited to assess the need for EU legislation to harmonise procedural safeguards for children in cross-border family law proceedings. It should also urgently assess the most appropriate means, including a bilateral tool, to address the existing legal uncertainty between the EU and the United Kingdom in the field of civil, administrative and family proceedings concerning children.

Mediation in cases concerning children

The Commission is invited to present a new proposal for a regulation on cross-border mediation, accompanied by an impact assessment, which establishes common standards for the cross-border procedure, rules on the recognition and enforcement of mediated agreements, requirements for the establishment of a European certificate for mediators to ensure the quality of expertise in cross-border cases, as well as common standards for cross-border mediation contracts.

The report stressed that mediation can be an effective tool to protect the best interests of the child in cross-border parental abduction cases. In this respect, it highlighted good practices and mediators in court model used by some Member States to resolve cross-border family disputes amicably and out of court.

Member States are invited to:

- set up pre-mediation offices to provide the parents and children concerned with all the information they need about the conduct of mediation and its possible costs and benefits;
- ensure that children have the opportunity to speak to a qualified and independent individual throughout the mediation process;
- facilitate access to legal aid for mediation in cross-border family disputes for parents with limited financial means.

Protection of the rights of the child in civil, administrative and family law proceedings

The European Parliament adopted by 529 votes to 49, with 52 abstentions, a resolution on the protection of the rights of the child in civil, administrative and family law proceedings.

An increasing number of children and adolescents are coming into contact with the judicial system in civil, administrative and family law proceedings, mainly due to the increase in divorce, separation and adoption. In such proceedings, all children should be guaranteed non-discriminatory access to justice.

Child-friendly justice

Parliament called on the Member States to ensure that in all proceedings concerning the child's well-being and future life arrangements, the rights of the child are respected, guaranteed and implemented in full, and the best interests of the child are given the highest priority and are duly incorporated and consistently applied in every action taken by public institutions, especially in judicial proceedings, which has a direct or indirect impact on children.

Members recalled that children have the right to be heard, to express their views in any proceedings affecting their well-being and future living conditions and to participate in such proceedings in accordance with their age, maturity and language skills. The views of children should be taken into account whether the proceedings are conducted by a court or by any other competent authority.

The Commission is invited to present a set of common guidelines or similar non-legislative instruments, including recommendations and best practices for Member States, to ensure that the hearing of the child is conducted by a judge or a qualified expert and that no pressure is exerted, including by parents.

Such hearings, notably in family law proceedings, should take place in a child-friendly setting. In cases of suspected domestic or family violence or where the child witnesses violence, the hearing should always take place in the presence of qualified professionals, doctors or psychologists.

Member States are called upon to:

- ensure easily accessible, understandable, comprehensive and child-friendly information on the rights of the child in civil, administrative and family law proceedings and the proceedings themselves, including those of a cross-border nature;
- enable access to free, publicly-funded, high-quality legal representation for children involved in civil, administrative and family disputes, including those of a cross-border nature;
- set up easily accessible, high-quality, personalised, free and publicly-funded advisory and child support services to provide, where necessary, the support of trained professionals and to provide the best support for the child throughout all stages of the proceedings;
- provide mandatory training courses on the rights and specific needs of the child for judges, other legal professionals and all other relevant parties involved in court and administrative proceedings concerning children.

An EU framework for the protection of the rights of the child in cross-border civil disputes

Members consider that children involved in civil or family law disputes should enjoy the same rights, level of protection, procedural safeguards and minimum standards in all Member States, regardless of the nationality of their parents.

Member States are called upon to:

- protect the best interests of the child in cross-border family proceedings, including by ensuring that laws and procedures do not discriminate between the parents on the basis of their nationality, country of residence or otherwise, and by refusing the assumption that the best interest of the child is always to remain within a particular Member States territory;
- respect the right of each child to maintain personal and direct contact with each parent, unless it is against the best interests of the child, regardless of family composition or biological relationship;
- effectively enforce judgments in cross-border family disputes concerning children in line with applicable EU law and the judgments of the Court of Justice, especially in cases related to cross-border parental child abductions but also separation, divorce, custody, adoption and foster care and decisions related to the recognition of parenthood, including same-sex couples;
- properly implement the new rules and obligations under Council Regulation (EU) 2019/1111 on jurisdiction, the recognition and enforcement of decisions in matrimonial matters and the matters of parental responsibility, and on international child abduction;
- ensure that the financial costs of proceedings and additional costs inherent in cross-border cases are not a barrier to accessing justice in cross-border civil, administrative and family cases involving children.

The Commission is invited to assess the need for EU legislation to harmonise procedural safeguards for children in cross-border family law proceedings. It should also urgently assess the most appropriate means, including a bilateral tool, to address the existing legal uncertainty between the EU and the United Kingdom in the field of civil, administrative and family proceedings concerning children.

The European Parliament should be involved in any new or revised legislative proposal on cross-border civil and family law.

Mediation in cases concerning children

In many cases, family mediation has proved to be a quicker, cheaper and more child-friendly way of resolving the dispute than court proceedings, and could therefore help prevent future parental abductions. The use of alternative dispute resolutions should be encouraged, especially in cases of domestic violence and sexual abuse.

The Commission is invited to present a new proposal for a regulation on cross-border mediation, accompanied by an impact assessment, which establishes common standards for the cross-border procedure, rules on the recognition and enforcement of mediated agreements, requirements for the establishment of a European certificate for mediators to ensure the quality of expertise in cross-border cases, as well as common standards for cross-border mediation contracts.

Member States are invited to ensure that children have the opportunity to speak to a qualified and independent individual throughout the mediation process and facilitate access to legal aid for mediation in cross-border family disputes for parents with limited financial means.