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

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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 State's 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.