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

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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 co**mmon 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 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, 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 legislati**on 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.