

Cross-border mediation

Mediation offers parents the opportunity to reach a settlement on the place of residence of their child and/or to make agreements on international care and contact arrangements.

"Parents know better than any judge what it is that their child needs"

Contact

Do you have any questions or would you like more information about the Mediation Bureau? Then get in touch.

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The Mediation Bureau for Attorneys-at-law

Is your client considering mediation or is he or she already involved in mediation procedures? Hereby we inform you about our services.

The Mediation Bureau organises and coordinates cross-border mediations in international child abduction cases, international access cases and relocation cases.





What is cross-border mediation?

'Cross-border' means that parents are from different countries and/or have their normal residence in different countries or have the intention to do so.

Mediation offers both parents, the opportunity to reach a settlement regarding the place of residence of their child and/or to make arrangements for an international care and contact agreement. The best interests of the child and a positive relationship with both parents and other family members are always at the forefront.

Mediation takes place in a safe and neutral environment under the guidance of two experienced, independent and expert cross-border mediators, namely an attorney-at-law/legal mediator and a behavioural mediator.

"Research shows that agreements made during mediation are better supported and complied with"

cross-border mediation?

The purpose of cross-border mediation is that parent *voluntarily* reach an agreement on the place of residence of their child and/or an international care and access arrangement. Under the guidance of two mediators, they will be helped to map out their dispute. The starting point is to always work towards a solution that does justice to the child and is acceptable for both parents. Matters concerning (child) maintenance are not appropriate within cross-border mediation.

Cross-border mediation is not only appropriate in the different phases of child abduction, but also in general international family-law cases.

'Pressure cooker-method'

In International child abduction cases (IKO), the entire procedure takes place within ten days of the pre-trial hearing. This is also referred to as the 'pressure-cooker method': it quickly creates clarity in a period that parents find extremely stressful.

For mediations of an international nature, where no return procedure is pending in the framework of child abduction, we are not bound by this ten-day period. Even then, the aim is to have the mediation as soon as possible.

Cross-border mediation was created to prevent, mitigate or end a long legal battle between parents. If legal proceedings have already begun, the progress of those proceedings shall not be impaired or delayed. It runs parallel to the mediation process. Mediation promotes the future relationship between parents, reducing conflict and potential trauma for their child.

Finally, mediation is often faster and less expensive. The parents may be eligible for funded assistance.

We are happy to help.

How does it work?

Before starting, a mediation agreement must be signed and an intake interview is held by telephone with one of the mediators and the parents individually. After this intake, the mediator assesses whether the case is suitable for mediation. If this is the case, the further procedure is initiated.

Child interview

First, the child's voice is introduced by a third independent mediator (child expert) who talks to the child and observes him/her. A child interview always takes place in the absence of the parents. In a playful way, the child will be asked how he/she views the situation. The child will not be asked to choose between the parents or for a country. The parents must both give their consent to this interview and bear the associated costs. A report of the child interview is made which is read out during the cross-border mediation. The child interview provides important input so that the parties do not remain on opposite sides of the table, but can once again work together as parents to see what may work well for their child.

Cross-border mediation

Then the parents will enter into the conversation. During the first session there will be joint discussions as well as an individual discussion during which the points of dispute are mapped out by the mediators.

At the second session, an attempt is made to find solutions and, if possible, agreements are made. The best interests of the child and a lasting positive relationship with both parents are always paramount.

The mediators will actively involve you as attorney-at-law in the mediation by participating in a conference call at the end of the first day. In this call you will be informed of how the mediation is going and what might still be needed for a successful outcome. **Therefore, your availability for consultation is very important!**

Finally, the draft agreement is sent to parents for approval, so that they can discuss its contents with you and perhaps your colleague abroad. During the final session the draft agreement is finalised

and signed in the presence of both mediators.

You are then required to deliver this signed agreement to the court.

Different outcomes

- A settlement agreement, in which the parents fully agree on the habitual residence of their child and international care and access arrangements
- A mirror agreement, in which parents leave the decision about the habitual residence to the judge, but make arrangements with each other for the various decisions the judge may give. For instance, arrangements regarding contact, communication, information and travel for when the child returns and for when the child does not return. Even though this is a partial agreement, it can be a great relief for the parents to get a grip on what the future will be like, both in the event of a court decision they desire and a court decision they fear
- No agreement or an agreement on care and contact only during the time that proceedings are pending.

Confidentiality

You are asked to inform the parents that nothing of what is said during the cross-border mediation can be used in court as evidence. Oral or written information obtained before, during or after a mediation shall be treated with strict confidentiality. This includes the child interview. Only what is laid down in an agreement may be disclosed. The Mediation Bureau asks parents, mediators and you to sign for this confidentiality.

Costs

The costs of cross-border mediation amount to € 1390.00 per parent. This includes nine hours of mediation, the preparation, the completion and drafting of the agreement.

If the parents are eligible for funded legal assistance they can apply for legal assistance for mediation through the Mediation Bureau. This is also possible if one of the parents is living abroad. In case of legal assistance, a personal contribution of € 58.00 is required. These costs will be reimbursed to the parents afterwards if it turns out that they have already paid a personal contribution for your services.

Costs of child interview

Additional costs may be charged for the child interview, regardless of funded legal aid. The costs of the child interview depend on the number of children:

- The costs for an interview with one child from a family are € 250.00
- The costs for interviews with two children from a family are € 400.00
- The costs for interviews with three children or more are € 500.00

The Mediation Bureau assumes that the parents will divide the costs for a child interview equally, unless they explicitly agree on a different division of these costs.

The invoice sent by the Mediation Bureau must be paid to the Mediation Bureau before the mediation starts.

"Mediation is a way of assisting parties in reaching jointly supported agreements. Parents then remain parents instead of parties"





Figure 1. Picture of the mediation process.

Individual request	Both parents open to mediation			Conference call attorneys-at-law	Termination of mediation process
Contact with Mediation Bureau	10-days term	Intake interview	Child interview	Cross-border mediation	Completion by Mediation Bureau