

## Cross- border mediation

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

*"As parents, you know better than any judge what it is that your child needs"*

## Contact

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

P.O. Box 2006  
1200 CA Hilversum

+31 (0)88 800 90 09  
info@mediationbureau.org

You can also ask whether your representative at the Central Authority International Children's Affairs (Ca) or your attorney-at law to contact us on your behalf.

## The Mediation Bureau for Parents

The Mediation Bureau organises and coordinates cross-border mediations in international child abduction cases, international access cases and permission for moving abroad with minor children.





## 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 you, as parents, the opportunity to reach a settlement regarding the place of residence of your child and/or to make arrangements for an international care and contact agreement. The best interests of your child and a positive relationship with both parents and others 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"*

## What is the purpose of cross-border mediation?

The purpose of cross-border mediation is to reach a voluntary agreement on the place of residence of your child and/or an international care and access arrangement. Under the guidance of two mediators, you will be helped to map out your dispute. The starting point is always that, under the expert guidance of the cross-border mediators, you will work towards a solution for your minor child/children that is acceptable for you.

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

In International child abduction cases (IKO), the entire procedure takes place within ten days of the pre-trial hearing. This quickly creates clarity in a period that you are likely to 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 you as 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 your future relationship as parents, reducing conflict and potential trauma for your child.

Finally, mediation is often faster and less expensive. As parents, you 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 you as parents individually. After this intake, the mediator assesses whether your case is suitable for mediation. If this is the case, the further procedure is initiated.

### Child interview

First, your child's voice is introduced by a third independent mediator (child expert) who talks to your child, from three years and older and observes him/her. A child interview always takes place in the absence of the parents. In a playful way, your child will be asked how he/she views the situation. Your child will not be asked to choose between you as parents or for a country. You must both give your consent to this interview and the associated costs are also borne by both of you. 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 your child.

### Cross-border mediation

Then, as parents, you 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 arrangements made are laid down in a draft agreement. Apart from that you can of course always contact your own attorney-at-law, both attorneys-at-law will also be actively involved in the mediation. They do this by participating in a conference call at the end of the first day. In this call it is indicated how the mediation is going and what might still be needed for a successful outcome.

Finally, the draft agreement is sent to you, so that you can discuss its contents with your Dutch attorney-at-law and perhaps your attorney-at-law abroad. During the final session on the second day of the cross-border mediation procedure, the draft agreement is

finalised and you will hopefully be able to sign in the presence of both mediators. The agreement is then delivered to the court by your attorney-at-law.

### Different outcomes

- A settlement agreement, in which you fully agree on the habitual residence of your child and international care and access arrangements
- A mirror agreement, in which you 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 your child returns and for when your child does not return. Even though this is a partial agreement, it can be a great relief to get a grip on what the future will be like, both in the event of a court decision you desire and a court decision you fear
- No agreement or an agreement on care and contact only during the time that proceedings are pending.

## Confidentiality

Nothing that 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 mediators and lawyers 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 you are eligible for funded legal assistance you can apply for legal assistance for mediation through the Mediation Bureau. This is also possible if one of you is living abroad.

In case of legal assistance, a personal contribution of € 61,00 is required. These costs will be reimbursed afterwards if it turns out that you have already paid a personal contribution for litigation in the same case.

## 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 € 297,00
- The costs for interviews with two children from a family are € 477,00
- The costs for interviews with three children or more are € 594,00

The Mediation Bureau assumes that you will divide the costs for a child interview equally, unless you 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.

## Cancellation

If the cross-border mediation does not proceed, at the request of the parties, within 48 hours:

- Prior to the intake interviews, the Mediation Bureau, due to the preparations made, is required to withhold 25 % of the total amount paid by the parties

- After the intake interviews, the Mediation Bureau, due to the preparations made, is required to withhold 25 % of the total amount paid by the parties, and the costs of these conversations will be shared amongst the parties.

In the event of the cancellation of the child interview, at the request of the parties within 48 hours prior to the child interview, the Mediation Bureau, due to the preparations made, is required to withhold 50 % of the total amount paid by the parties for the child interview.



***"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   |