

Guidelines by the German Association for Public and Private Welfare on cross-border case work in child and youth welfare

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1. Preliminary Remark

A father seeks advice and wants to know whether and how his Hungarian contact order can be enforced in Germany, and which court has jurisdiction for this. Communication between the parents has completely broken down - and there are also significant language barriers. Is intercultural mediation also an option?

A child is to be removed from its family in Germany because its wellbeing appears to be at risk. The specialists at the local youth welfare office see two options when it comes to finding a suitable alternative placement. Firstly, there is the option of placing the child with a foster family in Germany. Secondly, there are uncles and aunts living in Spain who are also prepared to take the child in. How can it be checked whether this is a suitable placement for the child and how can the guardianship already established be continued? Can this possibly be transferred to the Spanish authorities?

Youth welfare offices and courts are also regularly confronted with cross-border issues - such as child protection, child abduction, placements abroad - and migration-specific issues.

Each country has its own family law and youth welfare systems in which private individuals and professionals have to navigate. Added to this are cultural differences and language barriers, which can easily lead to misunderstandings among those affected and complicate the help process. In addition, international agreements between countries and at European level must be observed.

In complex intercultural and cross-border cases, it is therefore important that child and youth welfare professionals receive professional and reliable support. There is no so-called "international youth welfare office". ISS Germany – ISD at the German Association for Public and Private Welfare (Deutscher Verein für öffentliche und private Fürsorge e.V.) as part of the International Social Service (ISS) network can provide advice and mediation.

This also applies in particular to the counselling of youth welfare offices and family courts in the context of e.g. the clarification of a suspected child endangerment abroad. The counselling includes the explanation of case-relevant legal, structural or cultural peculiarities in the respective other country or the mediation of socio-educational statements relating to individual cases by local social services or specialist agencies on site.

This guide has been developed on the basis of practical experience. This updated edition was necessary in order to adapt the content to the changed legal situation. On the one hand, it describes the complexity of the topic and, on the other, provides practical, everyday advice for child and youth welfare workers. It does not claim to be exhaustive. If you have any questions about the details, please do not hesitate to contact ISD as well as the specialist actors named in the appendix are available for advice. This guide is primarily intended to provide an overview and is in no way a substitute for counselling and examination of individual cases.

Your contact at the
German Association:
Viola Rentzsch.

This preliminary remark is followed by a practical section (2.), which uses examples from day-to-day work to illustrate the special features that need to be considered in cross-border casework in order to ensure the best possible assistance process.

In particular, the topics of child protection, child abduction, placement abroad as well as contact and custody conflicts will be addressed. The legal principles are deliberately omitted from the case descriptions in order to maintain clarity. These are presented in compact form in the chapter on legal principles (3.).

To illustrate the differences in international working methods in the areas of child protection, parental responsibility and contact, the youth welfare systems of Poland, Spain and Lebanon are then outlined as examples (4.). The appendix describes the typical actors in international family law and youth welfare contexts and defines their tasks. In order to ensure quick access to working partners and counselling centres in case of need, the appendix lists the necessary contact addresses of the actors mentioned in the practical section.

2. Practical Section - Possible case constellations in cross-border child custody matters

2.1 Custody and Contact Conflicts

Background

Family conflicts with an international dimension, be it concerning custody or access rights, have particular consequences for the parents and children concerned. Crossing a national border and the involvement of foreign authorities can be unsettling for those affected, and greater distances require different contact rules, to name just a few factors. The cultural and emotional factors can be difficult for the professional to deal with, especially if only one parent and their perspective can be reached.

Legally and culturally, very different custody concepts are evident around the world. The German concept of custody is by no means transferable to the rest of the world. In many Arab legal systems, the term "custody" only includes the right to actually look after the child (hadana), but this does not usually include legal representation or "guardianship" of the child (wilaya). The former is usually assigned to the mother, the latter to the father.

Internationally, "parental responsibility" is gaining acceptance as a basic term, which implies a broader meaning than parental authority or German custody law.

In legal systems that follow the concept of "parental responsibility", partial areas of parental responsibility can be transferred to one parent, but the authority to make fundamental decisions concerning the child (e.g. removal of the child abroad) remains unaffected. In contrast to the German transfer of the right to determine residence, often only the child's place of residence is determined by the court.

These different concepts have a particular impact on relocation. In this respect, when counselling parents who have recently moved from abroad, it must be carefully examined whether this move from abroad can withstand a legal review - and thus also a return application under the 1980 Child Abduction Convention.¹

Moreover, many legal systems do not link different legal consequences to the status of the parents' relationship: regardless of whether the parents are married at birth or not, joint parental responsibility arises from birth. In other countries, such as England, the establishment of parental responsibility is subject to conditions.

In principle, the law of the child's habitual residence is to be applied when clarifying the respective parental rights, whereby the child does not lose legal relationships once acquired. The competent court will then decide on any new arrangements to be made regarding custody.

In conflicts over the exercise of contact rights, the fear of a possible abduction or retention of the child during or after contact often plays a role. Before a parent refuses contact, other instruments should be considered (e.g. supervised contact, see 2.1.2).

Internationally, there are also different ideas about contact and those entitled to contact: For example, the amount of contact with the separated father depends largely on the assessment of the early mother-child relationship, particularly in the case of young children. Depending on where the child lives, the problems and possible courses of action for the professional will vary: If the child lives abroad and a parent who lives in Germany would like counselling and support, it is recommended in the best interests of the child to advise and support the parent in accordance with Section 18 SGB VIII to reach an out-of-court agreement, even if the youth welfare office does not have international jurisdiction due to the child's non-residence.

If it is not possible to reach an out-of-court agreement, the parent seeking contact must check whether they can enforce an existing arrangement or bring about an arrangement with the competent court. In particular, a right of access can be applied for in accordance with Art. 21 of the 1980 Child Abduction Convention.² Further details can be provided by the Federal Office of Justice in its function as the Central Authority (hereinafter referred to as the Federal Office of Justice).³

If the child lives in Germany and a parent living abroad wishes to have contact with the child, the same legal mechanisms apply (in particular Art. 21 of the 1980 Child Abduction Convention and the Brussels IIb Regulation⁴), when enquiries are made via the Federal Office of Justice in conjunction with Section 9 of the German International Family Proceedings Act (IntFamRVG). Out-of-court and amicable solutions should also always be considered. They enable and require individualised solutions.

Practical example

A mother of a child lives with her child in Germany and refuses access to the child's father, who is entitled to have contact and lives in Portugal.

Legal provisions to be observed

In principle, the regulation of contact is governed by the law of the state in which the child's habitual residence is located.

Art. 21 of the 1980 Child Abduction Convention for the securing contact claims abroad.

¹ HCCH Convention of 25 October 1980 on the Civil Aspects of International Child Abduction.

² However, the obligations established by Article 21 of the Hague Convention are interpreted differently by the individual contracting states, which means that the support provided by the foreign central authorities and courts may vary. The recognition and enforcement of an existing contact arrangement may be possible in individual cases in accordance with the Brussels IIb Regulation, the Hague Convention on the Protection of Children, the European Convention on Custody or the national law of the other state.

Recognition and enforcement in accordance with the provisions of the Brussels IIb Regulation, in particular Art. 45 for the enforcement of a contact order abroad without a declaration of enforceability, provided it is accompanied by a certificate in accordance with Art. 47 of the Regulation.

Obligation of the professionals

According to section 18 SGB VIII (Book Eight of the German Social Code – Child and Youth Services), the youth welfare office must advise and support all parties involved - father, mother and child - in exercising the right of access.

In cases where the youth welfare office is involved by the Federal Office of Justice in ongoing foreign proceedings, the duty to cooperate arises from section 9 IntFamRVG.

Options for action

The youth welfare office can come into contact with the case in different ways. The father of the child can contact the youth welfare office directly and ask for counselling. However, the father can also ask the specialist centre responsible for him in Portugal for mediation. This could contact ISS in Portugal with a request for support and mediation. The latter will involve the International Social Service, which may contact the youth welfare office responsible for the child's place of residence and ask for clarification of the situation and mediation.

The father can apply to the Federal Office of Justice for the implementation or effective exercise of his right of access in accordance with section 21 of the 1980 Child Abduction Convention. The Federal Office of Justice can initiate court proceedings in this respect for the father if a request is received. An attempt is usually first made to find an extrajudicial solution with the involvement of the competent youth welfare office. Under the Brussels IIb Regulation, the Portuguese access order presented by the father can be recognised in Germany without further ado and is directly enforceable. A separate recognition procedure is generally not necessary. If necessary, the contact arrangements can be adapted in German proceedings in order to best meet the needs of the child.

Digression

In the opposite situation, i.e. the father who wants contact lives in Germany and wants contact with his child living abroad (e.g. Portugal) with the mother, he can ask for counselling from the youth welfare office in his place of residence. The youth welfare office can then contact the International Social Service. The latter can assist with the placement through its working partner in Portugal. The Federal Office of Justice can also support him in his request for contact by contacting the foreign central authority and obtaining information. How contact can be enforced locally and what support the foreign central authority can offer in any local proceedings varies depending on the contracting state. In practice, it can also play a role here whether a contact order already exists and is to be enforced or whether contact is being requested for the first time and a decision is to be made.

3 General and current information at: https://www.bundesjustizamt.de/DE/Themen/Familieinternational/Sorgerecht/Sorgerecht_node.html (last accessed: 24 September 2025).

4 Council Regulation (EU) 2019/1111 of 25 June 2019 concerning jurisdiction, the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility and international child abduction.

2.1.1 Domestic violence

Background

Domestic violence is a recurring theme in counselling and support for families. time and again. It also regularly affects children, including as witnessed violence. The concept of violence extends far beyond physical assault: according to the Istanbul Convention⁵, it also includes psychological, sexual and economic violence. Additional challenges arise, particularly in cases involving foreign countries. Specialists are often confronted with the fact that information about the other parent is only available to a limited extent. Dependency - for example due to an uncertain residence status, language barriers or a lack of social networks - can further exacerbate the situation.

Practical example

A mother moves with her child from Switzerland to Germany without any further preparation. She turns to the youth welfare office with a request for protection and claims that the father, who also has custody of the child, has beaten her in an argument.

Legal provisions to be observed

- Art. 31 of the Istanbul Convention (consideration of domestic violence in proceedings concerning custody and access rights),
- Section 8a SGB VIII (as a protection mandate in the event of child endangerment),
- Section 1666 BGB (German Civil Code, for judicial measures in the event of child endangerment),
- Provisions of the Brussels IIb Regulation and the 1996 Child Protection Convention (for the recognition and enforcement of protection measures and decisions abroad).

Obligation of the professionals

If a parent claims that he or she or a joint child is affected by family violence, this must always be taken seriously. The Istanbul Convention must also be observed in constellations with a foreign connection. Article 31 of the Convention obliges states parties to take incidents of domestic violence into account in the context of access and custody proceedings in order to ensure that the exercise of visitation or custody rights does not jeopardise the rights and safety of the victim and the children.⁶

Options for action

Nevertheless, there are some additional considerations to be made and particularities to be taken into account in cross-border constellations: If the other parent is not also on site, it can be difficult for the professional to get an idea of the situation and determine the necessary measures. With the help of ISS Germany – ISD and the central authorities, information can be obtained a certain amount of time in advance. Until this information is available, it should be carefully considered which measures are necessary, even if the other parent is not on site.

If a move or return to the other country is on the cards, it should be checked whether protective measures have already been taken and/or are being taken with you. In any case, a generous lead time is required.

⁵ The Council of Europe Convention on preventing and combating violence against women and domestic violence came into force for Germany on 1 February 2018.

2.1.2 Accompanied contact

Background

According to Section 18 Para. 3 Sentence 3 SGB VIII, the parents and the persons responsible according to Section 1685 BGB must

The persons entitled to access and other persons in whose care the child is located are entitled to counselling and support. In practice, difficulties can arise when exercising the duty of access and the right of access due to the often conflicting attitudes of the persons entitled to access towards each other. Assisted contact⁶ is used when the right of contact cannot be guaranteed without professional support.

The family court can order that contact may only take place if a third party willing to cooperate is present. The family court has no authority to issue instructions to this third party, i.e. not even to the child and youth welfare organisation. The child and youth welfare organisation itself can also offer support to those entitled to or initiate contact with the child at their own request without a court order.

Accompanied contact is defined as temporary assistance. The aim of the measure is to ensure that parents are able to have independent contact with their child as quickly as possible. The prerequisites for this are stable, safe and, as far as possible, conflict-free contact between the child and the parent authorised to have contact, as well as acceptance and support of this contact by the parent with whom the child or young person usually lives.

Conflicts of loyalty on the part of the child or adolescent should be eliminated. Accompanying parental counselling is essential to achieve this goal.

Experience has shown that accompanied contact with intercultural constellations is in particularly high demand. Section 9 No. 2 of Book VIII of the Social Code (SGB VIII) stipulates the need to organise accompanied contact in a culturally, migration and context-sensitive manner. The diversity of cross-cultural and transnational migration movements, working conditions and individual lifestyles means that family law disputes are also carried out across national borders. Accompanied contact across national borders is therefore by no means an isolated case.

Practical example

The educational counselling centre is asked by the youth welfare office whether it can also carry out accompanied contact in a condensed form and at weekends. An Eastern European mother who does not live in Germany would like to have contact with her four-year-old son, who lives with his (German) father in Germany. The relationship is separated, but the marriage is not yet divorced. The father has sole right of residence for the child.

Communication between the two parents is very conflictual, but the father wants to ensure contact between the mother and child. Because the mother has already threatened to take her son to her home country, and because of her impulsive outbursts and her inadequate ability to empathise with the child's situation, an accompanied visit has been arranged by the court.

⁶ In Europe, the concept of violence is defined in particular by Art. 3 of the Istanbul Convention. For more information, see the ISS document "ISS Ottawa Principles for protecting children and parents subject to family violence in cross-border situations", which will be published shortly at the following link: <http://iss-ssi.org/iss-resources/>.

⁷ Further information: Professional Conference for Educational Counselling, see <http://www.bke.de/> (last accessed: 24 September 2025).

For professional reasons, the mother can only ever plan visits to Germany at longer intervals (approx. quarterly). She does not speak German. She can communicate with the visiting counsellor in English. However, the child only speaks German, not English and not her mother tongue. The mother wants to use the few days in Germany as intensively as possible with the child. The contact counsellor is supposed to provide a large amount of time for contact within a few days for two to three days.

Legal regulations to be observed

- Section 18 para. 3 sentence 2 SGB VIII (as the legal basis of entitlement for accompanied contact).
- Section 1684 para. 4 sentence 3 BGB (as the legal basis for the restriction of the right of access or the court order for accompanied contact).

Obligation of the professionals

The youth welfare office provides support in exercising the right of access.

Options for action

The contact agreement between parents, the youth welfare office and the counselling centre should be very detailed due to the high potential for conflict and the special framework conditions in the practical example described, e.g:

- Time-intensive supervised contact between the mother and the child, even at short notice if necessary,
- Intervention by the contact supervisor if the mother does not adhere to the agreed codes of behaviour or if the child shows signs of excessive demands,
- Preparation and follow-up of contact with the mother,
- Preparation and follow-up of contact with the father,
- Contact between mother and child outside of supervised contact is explicitly excluded,
- Joint evaluation of contact with parents and the youth welfare office after an agreed period of time, preparation of joint parent-teacher meetings at the parenting advice centre and consideration of converting accompanied contact into unaccompanied contact.

2.2 Removal of the child abroad and risk to the child's welfare

Background

If, in the course of a risk assessment, there are strong indications that a child's welfare and the child moves away unplanned, this often poses a challenge for professionals.

Section 86c of SGB VIII generally regulates the continued obligation to provide services and the transfer of cases in the event of a change of responsibility within the national framework. For the fulfilment of the duty to protect in cases of child endangerment, it is assumed that the youth welfare office that becomes aware of the endangerment is "all too independent". Section 8a para. 5 SGB VIII regulates the transfer of cases to a responsible youth welfare office. Ultimately, nothing else applies to moving abroad: the protection of the child does not end at the national border.

If a move is imminent or if there is even a justified suspicion that parents could evade state intervention by fleeing abroad and thus abort a necessary help process in the interests of the child's welfare, the tension between help and control inherent in the protection mandate in the sense of the guardianship is further intensified. If the child is still in Germany, immediate action is always required - in situations of concrete danger to life and limb - such as taking the child into care. An application for a temporary custody order from the competent family court may also be an option. If the family has already left the country, the police may issue an international alert to find the children. If there is already an order for the removal of custody before the child leaves the country, the return of the children can be applied for under the Hague Convention (see also the procedure described in 2.3.).

However, even without prior recourse to the family court, in the event of imminent danger and unknown whereabouts, it is in the interests of child protection to determine the child's whereabouts. The responsible local child protection authority must be informed. The decision on the pros and cons of an actual intervention requires knowledge of the respective national social and legal system. Knowledge of the actual circumstances and the often related professional judgements regarding the endangerment of children is an advantage. Even within Europe, the standards and intervention thresholds differ greatly. In all cases, it is important to weigh up how acute and concrete the threat posed by the termination of the assistance process is and whether the danger has been reduced by the current environment.

Practical example

A Polish family with two children is being looked after by the youth welfare office. The youth welfare office examines a child protection report as part of a risk assessment in accordance with Section 8a SGB VIII. Before the assessment is finalised, the parents travel to Poland with the children.

Legal regulations to be observed

- Section 8a SGB VIII on risk assessment and its processing,
- Art. 79, 80 para. 1 lit c) of the Brussels IIb Regulation (as the legal basis for cooperation between the Central Authorities),
- Art. 30, 31 lit c) of the 1996 Child Protection Convention⁽⁸⁾ (as the legal basis for cooperation and the exchange of information).

Obligation of the professionals

The specialist is responsible for forwarding the child protection report to the responsible foreign specialist centre in Poland.

Options for action

The risk report can be forwarded to the Polish central authority via the Federal Office of Justice in Bonn in accordance with the Brussels IIb Regulation.

It is important to provide the following information when forwarding the risk report:

- specific information about the family, see excursus,
- important factors jeopardising the welfare of the child,

8 The Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in respect of Parental Responsibility and Measures for the Protection of Children.

- Assessment by the youth welfare office of the risk of danger,
- Information on what, if anything, has already been done to avert the risk,
- Details of any failure to clarify the risk,
- Information on the possible whereabouts of the child.

The youth welfare office can also immediately apply to the family court for a temporary injunction. However, in many cases it is difficult to enforce these abroad, especially if the family court was not involved at all before the child moved away.

Digression

In accordance with Section 8a (4) SGB VIII, "experienced professionals" have a special role to play in case counselling and risk assessment. Continuous further training in the field of cross-border social work is important for understanding case constellations with an international dimension. If there is a concern that a family might move abroad in connection with a risk assessment (e.g. if one or both parents have a migration background or relatives living abroad), it is advisable to obtain all important information from the family in advance that can help to determine the child's whereabouts after the delay, e.g.:

- full names and dates of birth of the parents,
- Information on the nationality of the children and parents,
- place of origin of both parents,
- If applicable, places and addresses abroad where the relatives live,
- Parents' identity card or passport number.

It is also advisable to have a transparent dialogue in which the professional's concern about the child suddenly moving abroad is discussed.

For states that are party to the 1996 Child Protection Convention outside the EU, corresponding information can also be provided on the basis of the 1996 Child Protection Convention - also via the Federal Office of Justice. Alternatively, and for countries in which neither the Brussels IIb Regulation nor the 1996 Child Protection Convention apply, the International Social Service can be involved. The latter forwards the report via its working partners to the respective local child protection authority.

2.3 Child abduction

Background

With the increasing number of marriages and cohabiting relationships between people In addition, disputes over parental custody of children from such relationships have also increased between parents of different nationalities (see 2.1). Following a separation, parents may leave the country of joint residence with their children on their own authority without making appropriate arrangements. This is usually - but not necessarily - due to the desire of one parent to return with the children to their home country, where the parent's relatives and friends also live.

When finding a solution, it is always advisable to look at the respective motives for taking the child abroad, without ignoring the fact that the perspective of the absent parent is not present in the counselling. Any removal of a child, whether by the father, mother or a third party, to Germany or abroad, which interferes with custody rights, constitutes child abduction and harm to the child's welfare.

Even if the taking of children is perceived as "morally justified", it still remains an abduction with all the implications that this usually has both legally and socially. Parents often present children with a fait accompli by tearing them away from their familiar surroundings. And abduction often leads to further negative consequences such as loss of contact or even complete disappearance due to the fear that the other parent will take countermeasures.

Such an abduction or retention (for example after a holiday) presents the other parent with a fait accompli. The question then arises as to how the previous situation can be restored as quickly as possible by returning the child/children. The options for doing so largely depend on the country to which the child was abducted, in particular whether the Hague Convention on Child Abduction applies in the relationship between these countries. If there is no possibility of repatriation, an attempt should at least be made to re-establish and maintain contact with the child.

2.3.1 Abduction from or to an HCCA contracting state

Practical example

Maria from Spain and Paul from Germany meet while studying in Paris. They move to Berlin together, where they have lived since 2015. They marry in 2016. Their daughter Ana is born in 2017 and their son Max in 2020. Recently, there have been frequent crises in the relationship, and Maria has also lost her job at an international Spanish company in Berlin. They finally separate at the end of 2024. Maria wants to move to Salamanca with Ana and Max. Her parents and brother live there and would like to help her look after them. Paul does not agree to this, as he believes that the children should continue to live in Berlin. Maria travels with the two children to her family in Spain during the Christmas holidays. The plan was to return on 7 January 2025, when school and kindergarten start again. However, on 6 January, Maria informed Paul by email that she did not intend to return to Germany and had already registered the children at a Spanish school or kindergarten in Salamanca.

Legal provisions to be observed

- The 1980 Child Abduction Convention on the return procedure between its contracting states,
- Brussels IIb Regulation supplementing the 1980 Child Abduction Convention procedure, in particular Art. 9 and 27, but also the provisions on jurisdiction, recognition and enforcement may apply,
- the 1996 Child Protection Convention, in addition to the Hague return proceeding, in particular Art. 7 and 11, but also the provisions on jurisdiction, recognition and enforcement may apply.

Implemented in Germany by:

- IntFamRVG, in particular section 9 IntFamRVG.

Obligation of the specialised staff

According to Section 17 SGB VIII, the youth welfare office is obliged to advise parents in family conflicts (see also 2.3.2). This also includes raising awareness of the possible legal and emotional consequences of child abduction. The youth welfare office's obligation to provide advice includes not only informing parents themselves but also referring them to suitable contact points, such as educational counselling centres or specialised agencies, such as the International Social Service or the Federal Office of Justice.

Options for action

In the example above, the child is taken from Germany to Spain. Both countries are parties to the 1980 Child Abduction Convention. The left-behind parent can (if the other requirements are met, see 3.1) apply for the child to be returned to the country of origin, Germany, in accordance with the 1980 Child Abduction Convention. The Federal Office of Justice (see Appendix) and the Central Authority in Spain⁹ can assist the parent in this process.¹⁰ The Central Authority will also inform the parent of the possibility of out-of-court conflict resolution, e.g. through mediation.

2.3.2 Abduction from or to a non-contracting state

Practical example

After separating and divorcing three years ago, seven-year-old Mona now lives with her mother in Germany. The parents continue to have joint parental custody. Based on an agreement made between the parents, the father regularly takes Mona to visit his family in Egypt during the summer holidays. During this year's visit, the father leaves Mona with her grandparents in Cairo and returns to Germany alone.

Legal regulations to be observed

- Since Egypt is not a contracting state to the 1980 Child Abduction Convention, it is not applicable,
- civil law provisions of Egyptian law,
- Criminal Code, in particular Section 235 in conjunction with Sections 77b and 77d. Sections 77b and 77d on the criminalisation of child abduction and special features such as the criminal complaint.

Obligation of the professionals

In this conflict and crisis situation, the persons concerned have a right to counselling and support in accordance with Sections 17 and 18 SGB VIII by the youth welfare office. The claim also exists after the abduction, as the child's habitual residence in Germany is not immediately lost.

⁹ The contact details of all Contracting States to the HCCH can be found on the Hague Conference website at www.hcch.net (last accessed: 24 September 2025).

¹⁰ Corresponding forms can be found at: https://www.bundesjustizamt.de/DE/Themen/Familieinternational/Sorgerecht/Formulare/Formulare_node.html (last accessed: 24 September 2025).

Options for action

As the child was taken from Germany to a country that is not a party to the 1980 Child Abduction Convention, the Federal Office of Justice has no legal mandate to take action.

For each individual case, it is necessary to examine and weigh up which strategy is likely to have the best chance of success - a balancing act between pressure and negotiation. This strategy must be reviewed and adapted as it develops. The central contact point for cross-border child conflicts and mediation at the International Social Service can help with this.

Digression

If a child is taken from Germany to a non-contracting state or retained there, or taken from a non-contracting state to Germany or retained there, it may be helpful to examine the following aspects when counselling the persons concerned:

- What could be the motivation behind the abducting parent's actions?
- Is it possible and helpful to take legal action in Germany?
- Is a domestic title (court judgement) available or still to be obtained and would the title be enforceable abroad? It should also be considered whether possible loss of time is to be expected and whether the abducting parent will be deterred from voluntarily returning the child.
- Is legal action abroad possible, promising and helpful?
- How can the left-behind parent be enabled to attend a hearing abroad? Experience has shown that the perspective of the left-behind parent is much better perceived by the court through such a presence.
- Are means of exerting pressure available (e.g. property interests, criminal complaint, residence permit in Germany, etc.) and can they be used? Who can use them? Criminal charges/criminal complaint and an arrest warrant must be carefully weighed up (building up pressure on the one hand, but also the risk of losing contact with the child). Are negotiations conceivable? Is there a person accepted by both parties as a "neutral mediator"? However, it is also necessary to ask critically: When is negotiation pointless? When does negotiation become an end in itself?
- What other "players" are there (grandparents, other relatives or attachment figures) and what effect do they have on the situation and the child's well-being? The abducting parent often returns to the parental home. What legal and factual obstacles exist for the left-behind parent if he or she wants to become active or make contact in the other country? For example, does the husband have the option of keeping his wife there? How can the journey and a longer stay be financed?
- Which governmental and non-governmental helpers can be involved? (e.g. Foreign Office, embassies abroad, counselling centres abroad, see VI.).

Special features of Islamic legal systems:

To date, only a few states with an Islamic legal system have acceded to the 1980 Child Abduction Convention. Morocco and Tunisia are the only countries in which the 1980 Child Abduction Convention applies in relation to Germany. This is not least due to the fundamentally different family law systems. In countries with an Islamic legal system, these are very "father-centred", both in terms of the legal structure and the self-image of those affected: The legal representation of the child always belongs to the father, or alternatively to a male representative of his family; the mother, on the other hand, is

responsible for the actual care of the child - for varying lengths of time from country to country. However, this actual care is usually subject to the proviso that the child is brought up in the correct Islamic way.¹¹In the event of a dispute, these two factors almost always mean that the mother would not be granted the right to actually care for the child in Germany before a court in the respective Islamic country. It would be conceivable, but rarely practicable, for the mother to care for the child in that country.¹²

2.3.3 Prevention

There are precautions that can be taken if there is a concrete risk of child abduction. The aim of such measures is, on the one hand, to actually prevent abduction or retention following contact. In addition, such measures are also an important aid in taking away the fear of abduction from a parent who refuses contact, for example, and strengthening their willingness to allow contact. The measures listed in Article 10 of the Council of Europe Convention on Contact with Children are available as possible models here.¹³However, it must be pointed out that even these measures do not provide 100% protection against actual child abduction.

Conciliation

Child abduction is usually preceded by a conflict between the parents. An open discussion with the help of a third party, who is perceived by both parties as impartial, offers the opportunity to communicate the respective fears to the other parent and to look for joint solutions. Third parties can be acquaintances or family members, but also youth welfare offices, educational counselling centres, conciliation centres or mediation centres.

International family mediation

Family mediation is a structured process in which the parents - with the help of impartial mediators - find a way to deal with each other constructively. The aim is to resolve the conflict through communication and exchange and to find solutions that all family members involved agree with.

The main focus of mediation is on the needs of the children. The aim is to find solutions that serve the best interests of the child and guarantee their rights. In most cases, the mediators are based in the country in which the mediation takes place. In the case of international family mediation, however, it can be helpful if one mediator is based in each parent's country of residence and they work together.

Sensitisation of the social environment

If there is sole parental custody, the kindergarten/school/home/club should be informed about the fear of child abduction and it should be pointed out that the child may only be handed over to one parent.

11 Rohe, M: Islamic law, Munich 2011.

12 Certain points - such as the wife's right to leave the country without the husband's consent - can be regulated by a marriage contract, the form and content of which is accepted in the other country. However, it should be noted that agreements that contradict Islam can render the contract null and void. This also includes the agreement of a non-revocable travel authorisation for the child.

13 The "European Convention on Contact with Children", full text and ratification status at <https://www.coe.int/de/web/conventions/full-list?module=treaty-detail&treatyid=192> (last accessed: 24 September 2025), does not apply to Germany, but the catalogue of measures nevertheless contains points of reference for possible helpful measures.

Arrangements in connection with contact

An application can be made to the family court to exclude contact. This should be carefully considered, as it may exacerbate the situation even further. You can also apply to the youth welfare office for contact support in accordance with Section 18 SGB VIII (see 2.1.2).

The other parent can be obliged to report regularly to a youth welfare office or police authority during contact.

Border closure

- A travel ban requires reasonable suspicion of imminent child abduction or imminent danger.
- Any person with parental authority is entitled to apply.
- The application for a temporary order to set up a travel ban is submitted to the locally competent district court (family court).
- If there is an immediate danger of leaving the country, the application can also be submitted directly to the Federal Police in Potsdam and a court order can be submitted within one week.
- The Federal Police will arrange for the child to be entered in the Schengen Information System (SIS) for the purpose of determining residence or detention, for the child and the respondent to be noted in the InPol information system (Germany-wide) and for the police authorities in Germany and other Schengen states¹⁴ to be informed so that departure or onward travel is prevented.
- If the child is found at a border or during a police check, the family court will be informed immediately¹⁵.
- The travel ban is generally valid for the duration determined by the family court, usually two years.
- The restriction is registered for the child, which may mean that neither parent can travel with the child.
- The court can extend or lift the ban at any time.

Other options are¹⁶:

- the submission of a declaration of enforceability for the custody or access order in the other country involved,
- covering the travelling expenses (by the parent requesting access) of a companion capable of acting there for a visit abroad or a meeting in a third country, if a visit to the home country of the other parent appears too unsafe,
- securing important documents for the child (ID, birth certificate),
- handing over the child's travel documents (e.g. to the parent, court, police) and informing the relevant consular authorities so that no new documents are created.

14 Current Schengen countries: Belgium, Bulgaria, Denmark, Germany, Estonia, Finland, France, Greece, Iceland, Italy, Croatia, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Austria, Poland, Portugal, Romania, Sweden, Switzerland, Slovakia, Slovenia, Spain, Czech Republic, Hungary.

15 ISS Germany – ISD can provide advice and, if necessary, support if there are any uncertainties regarding the further procedure and the return of the child.

16 In some countries, high security deposits are common in connection with contact arrangements.

2.4 Kidnapping and forced marriage¹⁷

Background

In contrast to child abduction (see point 2.3), in which one of the parents usually takes the child abroad against the will of the other parent, in cases of kidnapping both parents and the entire extended family are usually involved in taking the child abroad.

Young people usually do not know that they are supposed to stay in their parents' country of origin for longer or forever when the family spontaneously travels to visit relatives or goes on holiday. In some cases, they are left alone with relatives while their parents continue to live in Germany. In other cases, one parent remains in the country. In a further number of cases, the entire family initially leaves and it remains unclear for those affected where the family will live in the future. In most cases, the family is displaced to non-European countries. Within Europe, cases to Central and South-East Europe are particularly well known.

Kidnappings are usually highly complex and involve various areas of law. Contact with those affected is made secretly, while they are unfamiliar with the area and often have misconceptions about legal possibilities or the support of aid organisations. In addition, there is often an ambivalent attitude: on the one hand, they hope for a solution within the family, on the other hand, they have to weigh up whether they are prepared to enter into the conflict, up to and including a complete break with the family.

Girls and young women from the onset of puberty are predominantly affected. In some cases, younger siblings are also dragged along, especially if the whole family is travelling away, at least temporarily. In rare cases, boys and young men are also affected. This can be due to homosexuality, for example, which is often devalued in the country of origin as an "outgrowth" of Western societies and regarded as supposedly curable. Parents can also use deportation to shield their children from influences that are seen as negative - such as drug use, delinquent behaviour or a lifestyle that does not conform to religion.

The specific reason for an abduction is often unclear. However, two common risk factors are current or previous contact with child and youth welfare services - such as being taken into care - or a partner who is not accepted by the family. In this sense, abduction is always to be understood as a disciplinary and control measure. In some cases, it is linked to a planned forced marriage and is therefore also referred to as "marriage trafficking".

In the worst-case scenario, a protection gap can arise between deregistration in Germany and an unregistered arrival abroad, in which those affected disappear without a trace without outside intervention. In Germany, schools in particular are an important interface: it is there that it becomes apparent when those affected do not return after the holidays or are suddenly deregistered in the middle of the school year. Schools can request that a new school enrolment form be submitted if the child is already registered with the police and is required to attend school. It is crucial that a cancellation by the parents is not simply accepted.

¹⁷ Further information on this topic can be found at www.papatya.org (last accessed: 24 September 2025).

However, in cases where those affected neither attend school nor have a training place, they are often dependent on their partner or friends or have to make a call for help themselves to draw attention to their situation.

In the family's country of origin, those affected are often exposed to difficult living conditions. Many experience violence, have limited freedom of movement or are even imprisoned. As a rule, their mobile phones are taken away from them, access to the internet and other communication options is severely restricted and their everyday lives are permanently monitored. Many are also not allowed to attend school. In this way, they are deprived of almost all opportunities to seek help. There is hardly any contact with the outside world; instead, those affected are completely confined to the household.

In this predicament, cut off from the help system, it is almost impossible for those affected to organise a return on their own and against the will of their family. External support, for example from NGOs or private individuals, is also very difficult and time-consuming. Every contact can increase the risk; at the same time, close coordination with those affected is necessary.

The following applies abroad:

The German diplomatic missions abroad are responsible for German nationals residing outside of Germany. Under certain circumstances, they also support people with a residence permit in Germany. In countries without a German diplomatic mission abroad, EU citizens can make use of the consular protection of other EU countries. The German diplomatic missions abroad can issue replacement documents and visas, establish contact with relatives or friends, advance money for flight tickets in individual cases or arrange contact with local doctors and lawyers. In addition, they sometimes work together with women's rights organisations or the local police.

Foreign or dual nationality makes it considerably more difficult to obtain help, as in these cases the responsibility of the local authorities always takes precedence. Victims with a German passport often do not realise that they usually also have the nationality of their parents' country of origin.

Even if custody has been withdrawn in Germany, there is no guarantee that the person concerned will be able to leave the country without their parents' consent. There is often no quick solution and the person must wait until they reach the age of majority - this also applies to young people without German citizenship. The legal situation in the country of origin usually differs considerably from that in Germany, for example due to a lower age of marriage or a later age of majority. Some countries also lack regulations on child protection. Women's basic rights can be severely restricted, and in extreme cases it is impossible to move around in public spaces or apply for replacement papers from local authorities without a male companion. Sometimes there is only a small window of opportunity to escape, for example if male relatives can impose a ban on leaving the country.

The Federal Foreign Office provides more information, including on the consequences of religious family law, in its country information.

Until they return to Germany, the options for action from there are very limited, meaning that those affected are often left to their own devices. Any contact can increase the risk, and all activities must be closely coordinated with those affected.

Practical example

W., 16 years old, writes an email from Lebanon: "I have been in Lebanon for 5 months... I am to be married in a few months as soon as my parents come to Lebanon, I have now been promised."

More detailed enquiries revealed that W. was left behind by her father with relatives in Lebanon against her will because she had a boyfriend in Germany whom her father did not accept. She was to be married there as soon as possible, in order not to jeopardise the family's reputation. W. is a Lebanese citizen with a residence permit in Germany and previously lived in Berlin.

Legal provisions to be observed

- Section 8a SGB VIII in conjunction with Section 1666 BGB (protection mandate in the event of a risk to the child's welfare);
- Section 223 StGB (bodily harm), Section 225 StGB (mistreatment of persons in need of protection), Section 239 StGB (deprivation of liberty), Section 237 StGB (forced marriage), Section 240 StGB (coercion);
- Section 51 (1) Residence Act - AufenthG (cancellation of a residence permit) and possibly later Section 37 AufenthG (right of return);
- Lebanese law (a minor in Lebanon can only leave the country with the father's permission, see also country information from the Federal Foreign Office).

Obligation of the specialised staff

Pursuant to Section 8a SGB VIII, the youth welfare office must assess a possible risk to the child's welfare within the meaning of Section 1666 BGB and take appropriate measures.

Options for action

The youth welfare office can submit an application to withdraw custody or residence rights in W.'s absence. W. also has his own right of application. The family court can demand the return of the child under threat of administrative sanctions. The following aspects of the child's welfare are violated:

- the continuity of social relationships,
- the consideration of the child's will and its age-appropriate inclusion in decisions and the promotion of age-appropriate autonomy,
- the promotion of schooling and vocational training or compulsory schooling.

However, if custody is withdrawn in absentia, there is the problem of recognising and enforcing the German decision abroad.

The youth welfare office can also inform the child benefit fund. This can summon W. in person and threaten the parents with a suspension of payment if they do not appear.

Under residence law, W. can re-enter Germany within six months. As she cannot meet this deadline in her current predicament, the immigration authority must be informed promptly about the delay so that the residence permit does not expire.

Digression

There are further aspects to be considered in the event of deportation abroad: The German authorities can exert pressure on the parents to bring their child back.

- Notification of truancy: Schools can issue a notification of truancy with the threat of a fine.
- Receipt of social benefits: If the family continues to live in Germany and receives benefits for the abducted minor, the job centre can summon them in person and threaten to stop payment if they fail to appear.

Such measures have the advantage that the parents cannot automatically associate them with a call for help from the person concerned. At the same time, those affected should behave inconspicuously.

Overall, in the case of abduction, every measure - whether by a school, youth welfare office, social services provider, court or diplomatic mission abroad - must be carefully weighed up and communicated so as not to put the person concerned at additional risk. As long as the person is still within the family's direct sphere of influence, the impression should always be created that the steps taken by the German authorities are routine and independent of the person concerned.

A return from abroad usually requires a great deal of patience. During this time, the person concerned often comes of age or it is necessary to wait until they come of age in order to enable a safe departure. However, the need for help and the responsibility of the youth welfare office continue to exist. Support must not end when the child reaches the age of majority (Section 41 SGB VIII).

If the residence permit has expired in the meantime, the right to return under Section 37 AufenthG may apply at a later date. Under certain conditions, this allows a return up to the age of 21. In the case of forced marriage, re-entry may also be permitted after a longer absence (§ 37 Para. 2a AufenthG).

Child and youth welfare professionals should obtain information and/or advice on the topic from appropriate specialist advice centres, such as the PAPATYA Coordination Centre against Kidnapping and Forced Marriage.¹⁸ If necessary, the ISS network can also be involved and provide support.

2.5 Trafficking in Human Beings for the purpose of exploiting minors

Background

Every child¹⁹ has the right to protection from violence and exploitation. Human trafficking trafficking in minors is a form of violence and exploitation that is often very difficult to recognise. The so-called Palermo Protocol²⁰ of the United Nations from 2000 provides a globally recognised definition of human trafficking. Its definition was adopted by the Council of Europe²¹ and in principle also by the EU²².

18 <https://verschleppung.papatya.org> (last accessed: 24 September 2025).

19 In line with the UN Convention on the Rights of the Child, "child" is understood to mean all persons up to the age of 18.

20 Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime: https://www.bmbfsfj.bund.de/resource/blob/223974/78dc155be0d656823dc_cf27558fee819/zusatzprotokoll-bekaempfung-menschenhandel-data.pdf (last accessed: 24 September 2025).

21 Council of Europe Convention on Action against Trafficking in Human Beings of 16 May 2005.

22 EU Directive 2024/1712 amending Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims.

According to this, trafficking in human beings consists of three essential elements:²³

- **Act:** e.g. recruitment, harbouring, other receipt, transportation or transfer to another person;
- **Means:** e.g. deception, violence, intimidation, exploitation of a predicament, dangerous threats;
- **Purpose:** sexual exploitation, exploitation through organ harvesting, exploitation of labour, exploitation for begging and exploitation for the commission of punishable acts, exploitation of surrogacy, forced marriage and illegal adoption.

It is important to note that, unlike with adults, the use of "improper means" is irrelevant for the existence of human trafficking of minors. Specific forms of dependency, such as within a family organisation or in the form of the so-called "lover boy method"⁽²⁴⁾, are special features of human trafficking of minors.

The wording of the offence of human trafficking in Sections 232 and 233, 233a of the German Criminal Code (StGB) is based on the definition in the international conventions. It should be noted that in Germany, the term "child trafficking" in Section 236 of the Criminal Code only covers irregular adoption trafficking and other forms of exploitation of children are subsumed under the offence of human trafficking.⁽²⁵⁾

A minor who is a victim of human trafficking has special victim protection rights and a right to psychosocial process support. In December 2024, the Federal Government adopted the first National Action Plan (NAP) against human trafficking. The NAP contains measures to prevent and combat human trafficking and to implement victim protection rights.

Human trafficking is a child welfare risk and a criminal offence and leads to very complex situations and circumstances. Clarification abroad may be necessary. Traumatization or rejecting behaviour, minors who do not see themselves as victims or perpetrators from the child's immediate social environment can be manifestations. In order to recognise and protect affected minors and combat crime, it is necessary for child and youth welfare services, law enforcement agencies and victim protection institutions to work together. The best interests of the child must always take centre stage. In 2018, the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (BMFSFJ) published the "Federal Cooperation Concept"²⁶, which provides guidance for cooperation between youth welfare offices, the police, specialised counselling centres and other agencies. A list of indicators²⁷ for recognising signs of trafficking in and exploitation of minors has been developed in Annex 1 of the concept. If an investigation abroad becomes necessary, ISS Germany – ISD can be involved.

23 Article 3(a) of the Palermo Protocol defines trafficking in human beings as "the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation".

24 In this case, the perpetrator (usually) deceives girls and women into a romantic relationship and makes them emotionally dependent in order to ultimately force them into prostitution.

25 Exploitation of surrogacy, forced marriage and illegal adoption were only included in the revised EU Human Trafficking Directive in 2024 as criminal offences within the meaning of human trafficking. These forms of exploitation will be implemented in German criminal law by 2026.

Practical example

Adela, 16 years old, is convicted of fraud together with two adults. The police take Adela's witness statement and inform the local youth welfare office. The youth welfare office takes Adela into care and places her in a child and youth welfare centre.

Adela gives different details about the spelling of her name and her date of birth. She states that she lives in Germany with her adult siblings, but cannot give the exact place of residence. Her parents live in an Eastern European country. She herself had previously lived in a neighbouring country. She would like to return to her siblings. Adela does not speak German, so a language mediator is called in.

The youth welfare office endeavours to clarify Adela's identity and background and to locate her siblings. It instructs the International Social Service to locate the custodial parents in the country of origin, contact them and clarify the situation.

Legal regulations to be observed

- EU Directive 2024/1712 amending Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims,
- Council of Europe Convention on Action against Trafficking in Human Beings 2005,
- Additional Protocol to the Palermo Convention to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (also *Palermo Protocol*) of 2000,
- United Nations Convention against Transnational Organised Crime (also Palermo Convention) of 2000,
- Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Framework Decision 2001/220/JHA,
- Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA.

Commitment of professionals

If child and youth welfare professionals become aware of indications of human trafficking involving minors, it must be assumed that the welfare of the child is at risk and action must be taken in accordance with Section 8a SGB VIII. In suspected cases, the above-mentioned list of indicators from the Federal Co-operation Concept can be used. The youth welfare office must examine the indications that the child's welfare is at risk and assess the risk of danger in cooperation with several professionals (Section 8a SGB VIII).²⁶

26 BMFSFJ: Together instead of side by side! Federal cooperation concept "Protection and assistance in cases of trafficking in and exploitation of children", 2018, https://www.bmfsfj.bund.de/resource/blob/129878/558a1d7b8973_aa96ae9d43f5598abaf1/bundeskooperationskonzept-gegen-menschenhandel-data.pdf (last accessed: 24 September 2025).

27 Ibid, p. 55.

28 Art. 11 para. 4 of the EU Trafficking in Human Beings Directive 2011/36/EU (Directive), amended by Directive 2024/1712/EU, stipulates that each Member State should develop a National Referral Mechanism (NRM) to ensure that trafficked persons are recognised at an early stage and have access to protection and support. The form in which an NRM can be set up in Germany is currently being examined.

Options for action

The following aspects should be considered in the course of the risk report: What is Adela's relationship to the two adults with whom she was convicted by the police of conning and robbing the home of a senior citizen? Is Adela being exploited to commit criminal offences? Is she being trafficked? Where are the authorised guardians? Is the family involved in the exploitation of the girl?

If human trafficking is suspected, a counselling centre specialising in human trafficking and the police should be consulted for further clarification and assessment of the situation.

Adela should be accommodated in a suitable centre.²⁹

Digression

Not every situation of exploitation is human trafficking to the detriment of minors. However, regardless of the criminal categorisation, any form of exploitation of a minor is a risk to the child's welfare and requires child protection measures. As human trafficking is difficult to recognise, it is particularly important that all professional groups involved in the investigation process (child and youth welfare services, police, courts, etc.) are sensitised and made aware of the specific need for help for minors affected by exploitation and human trafficking in the youth welfare offices.

For a risk assessment based on a reasonable suspicion of child trafficking, information should be obtained for an initial assessment of the situation and a discussion should be held with the minor concerned about their current situation. If the minor speaks little or no German, it is necessary to involve an interpreter; in the case of girls, it would be advisable to hire a female interpreter. A medical assessment and initial treatment for signs of physical, sexual and psychological violence should be carried out with the child's consent.

Recognising an exploitative relationship is difficult. Affected minors usually do not present themselves as victims of human trafficking or exploitation, because they rarely identify as victims, are intimidated by perpetrators or are often afraid for themselves and their relatives or of the police and state measures. If minors are forced to commit criminal offences, they are often perceived by the authorities as perpetrators, for example of theft, instead of being identified as victims of human trafficking. Trafficked minors can also be severely traumatised by the experience of psychological and physical violence. They are therefore rarely cooperative and able to accept help at first contact.

If there is a concrete suspicion of human trafficking or if this becomes more concrete in the course of further clarification, it must be checked as part of the child protection concept whether a report should be made to the police. The minor should be placed in a suitable child and youth welfare centre that meets both the best interests of the child and the increased safety needs of the minor. Cooperation with the police and specialist counselling centres is also helpful for further clarification of the situation.

²⁹ See the German Association's recommendations on needs-based accommodation for minors affected by human trafficking and exploitation, 2020, <https://www.deutscher-verein.de/empfehlun-gen-stellungnahmen/detail/empfehlungen-des-deutschen-vereins-zur-bedarfsgerechten-unterbringung-von-minderjaehrigen-die-von-menschenhandel-und-ausbeutung-betroffen-sind/> (last accessed: 24 September 2025).

Clarification with authorities abroad may be necessary if, for example, the minor concerned has previously lived abroad or the person with parental responsibility or family members are abroad. Depending on the country, assistance can be provided by ISS Germany – ISD or the Federal Office of Justice. The further perspective can be clarified on the basis of the report from the foreign authorities: Whether a return to the country of origin, a move to a third country or remaining in Germany is in the best interests of the minor and whether protection and further support are guaranteed. The International Social Service coordinates and supports the return and further support of the minor and their family in the country of origin or in a third country together with the foreign specialist centre. The same applies to the Central Authorities within the scope of the Brussels IIb Regulation and the 1996 Child Protection Convention.

2.6 Cross-border placement

Background

The placement of a child in another country can be considered for various reasons may be considered: Typical examples include placement with relatives or in a foster family, the relocation of an already placed child abroad with the foster carer, but also targeted placement in an institution or intensive educational measure abroad. Measures abroad can open up special cultural, social and self-efficacy-promoting developmental spaces for children and young people.³⁰The background for placements of children from abroad in Germany are often language considerations and kinship care.

Even under the old legal situation, these constellations had in common that the preparation of the measure, the clarification of the situation abroad and the monitoring of the measure involved special legal, professional and organisational challenges. These requirements have been tightened at national level for placements abroad through Section 38 SGB VIII. At EU level, the updated Brussels IIb Regulation has adapted the rules for placements of children who are placed across borders within the European Union, with the exception of Denmark. In addition, the provisions of the 1996 Hague Convention on Child Protection continue to apply. Both sets of international regulations require a consultation procedure for cross-border placements in order to safeguard the best interests of the child in the destination country.

2.6.1 Placement abroad

Background

In the course of the 2021 Child and Youth Empowerment Act, with Section 38 the federal legislator created a regulation on welfare provided abroad that summarises the processes from the initial consideration of a placement to the end of a measure in a single provision. The individual steps necessary for the youth welfare office are derived from the core message of the regulation that the placing youth welfare office is responsible for all phases.

³⁰ Wendelin, Holger: Erziehungshilfen im Ausland, Weinheim 2011, p. 107 ff.; Klawe, Willy: Das Ausland als Lebens- und Lernort, Bochum 2013, p. 111 ff.

If German authorities/courts are considering placing a child abroad, it should be borne in mind that educational assistance in Sections 27 et seq. of SGB VIII is designed as a legal entitlement for the person with parental responsibility. Its primary aim is to improve parents' parenting skills in order to enable them to fulfil this responsibility again (Art. 6 Para. 2 Sentence 1 GG) and thus to be able to shape their relationship with their child without public assistance, but also to prepare them for an independent life if necessary (Section 34 Sentence 2 No. 3 SGB VIII). According to Section 38 Para. 1 SGB VIII, assistance abroad is designed as an exceptional case. It may only be provided if it is necessary to achieve the objective of the assistance in the individual case in accordance with the assistance planning, the youth welfare office providing the placement has satisfied itself locally of the suitability of the placement, the legal provisions of the receiving state are complied with and, in the case of placement in an EU member state or a state party to the 1996 Child Protection Convention, a consultation procedure has been carried out in advance and the receiving state has given its consent to the placement in advance.

If, in individual cases, a cross-border placement appears to be a suitable solution in the best interests of the child, it must be carefully and transparently prepared. This is an exception that requires special justification.

A special feature is that the child moves to the jurisdiction of another country. Accordingly, its specialised agencies must always be involved. Further obligations of the placing youth welfare office - such as continuous assistance and management planning as well as the obligation to retrieve the minor in certain cases - arise from Section 38 SGB VIII.³¹

Legal regulations to be observed

- Sections 27 ff, 38, 78b SGB VIII,
- Art. 82 Brussels IIb Regulation,
- Art. 33 of the 1996 Child Protection Convention,
- the relevant implementing provisions of the target state, if available.

The consultation procedure under the Brussels IIb Regulation and the 1996 Child Protection Convention

In addition to placements by German youth welfare offices as part of the provision of child and youth welfare services on the basis of SGB VIII, the prior consent of the competent authorities in the host state is also required in principle for placements of children in other states by German courts in accordance with Art. 82 para. 1 Brussels IIb Regulation and Art. 33 of the 1996 Child Protection Convention.

31 The obligations are set out in detail with answers to possible questions of doubt in two working aids in particular: Bundesarbeitsgemeinschaft Landesjugendämter (BAGLJÄ): Arbeitshilfe Verfahren bei grenzüberschreitenden Unterbringungen von Kindern und Jugendlichen, Münster 2024, p. 38, https://www.bag-landesjugendaemter.de/media/filer_public/8f/30/8f302617-1585-4e01-9d06-c5504833fbc7/240321-arbeitshilfe-grenzüberschreitende-unterbringung-pdf-ua.pdf (last accessed: 8 August 2025); Eckpunkte des Deutschen Vereins zur Durchführung von Auslandsmaßnahmen, insbesondere von intensivpädagogischen Einzelmaßnahmen im Ausland, Berlin 2022, p. 3, <https://www.deutscher-verein.de/empfehlungen-stellungnahmen/detail/eckpunkte-des-deutschen-vereins-zur-durchfuehrung-von-auslandsmassnahmen-insbesondere-von-intensivpaedagogischen-einzelmassnahmen-im-ausland/> (last accessed: 8 August 2025).

This duty to consult covers any type of placement of a minor child, whether in foster care³² or in an institution. This also includes intensive educational measures abroad that pursue educational goals as a result of special needs. Their duration is not relevant. In this context, the authorities of the state in which the child is to be placed (host state) must be involved and their prior consent must be obtained.³³ The Brussels IIb Regulation has tightened up and clarified the previous procedure for obtaining consent for placements in another EU state: Any cross-border placement outside the nuclear family or in institutions requires the prior consent of the competent authority of the host Member State.

The request of a court/authority under the new Art. 82 Brussels IIb Regulation must in principle be addressed via the Central Authority of the State of origin to the Central Authority of the receiving State, which will forward it.³⁴ The measure may only be carried out if the competent authority in the receiving State has expressly given its prior consent.

In the relationship between the Brussels IIb Regulation and the 1996 Child Protection Convention, the Regulation takes precedence among the EU Member States with the exception of Denmark, while placement in or from a state party to the 1996 Child Protection Convention, outside the EU or in Denmark, is governed by Art. 33 of the Convention. However, the regulatory content is largely the same. Within the scope of application of the 1996 Child Protection Convention, the request does not necessarily have to be forwarded via the Central Authorities. However, their involvement is always recommended.

No obligation to consult:

- Stays of minors that are based on a purely private decision by the legal guardians and where there is no youth welfare measure are not subject to consultation. No authority was involved in the decision and implementation.
- For children who are placed with one parent, Art. 82 para. 2 Brussels IIb Regulation constitutes an exception to the obligation to consult. According to the 1996 Child Protection Convention, a duty to consult also applies in principle in such a case, as no exceptions are regulated in 1996 Child Protection Convention CISA. In practice, however, it is uniformly assumed that no consultation is required even in the case of parental placement under the 1996 Child Protection Convention.
- In addition, the Member States are free to determine further exceptions for other categories of close relatives, e.g. grandparents. They must notify these categories in accordance with Art. 103 para. 1g) Brussels IIb Regulation. According to the 1996 Child Protection Convention, a consultation obligation also applies in this case.
- Purely holiday stays by foster families for tourist purposes should be free of consultation.³⁵

³² The consultation obligation also encompasses the relocation of a foster family with the child abroad.

³³ See also Recital 83 to the Brussels IIb Regulation.

³⁴ For the exceptions in the context of communication by the courts, see Art. 86 Brussels IIb Regulation.

³⁵ Cf. Hague Conference on Private International Law, October 2023, Eighth Special Commission Meeting Conclusions and Recommendations No. 85, p. 14, <https://assets.hcch.net/docs/5b48f412-6979-4dc1-b4c1-782fe0d5cfa7.pdf> (last accessed: 8 August 2025). This understanding of the term "accommodation" has now also been adopted within the scope of the Brussels IIb Regulation.

- In the case of all other tourist stays by minors as part of ongoing youth welfare measures (such as holiday camps, travel projects or similar), the obligation to consult is generally still to be assumed. It is therefore recommended to enquire with the Federal Office of Justice in advance for the specific individual case as to whether or not there is an obligation to obtain consent for the planned trip in accordance with Art. 33 of the 1996 Child Protection Convention or Art. 82 Brussels IIb Regulation.
- Other legal regulations apply instead of the Brussels IIb Regulation and the 1996 Child Protection Convention to stays that were decided exclusively on the basis of criminal law.

Procedure of a consultation procedure

The consultation procedure is initiated within the EU, with the exception of Denmark, by a request for consent to placement pursuant to Art. 82 para. 1 sentence 2 Brussels IIb Regulation from the court/authority to the Central Authority of the requesting state. The route via the Central Authorities is generally provided for under the Brussels IIb Regulation. To this end, the youth welfare office sends a report on the child, the reasons for the planned measure, information on any funding considered and any other information deemed relevant to the Federal Office of Justice as the Central Authority for Germany. Information and leaflets on the countries concerned can be found on the website of the Federal Office of Justice. Within the scope of application of the 1996 Child Protection Convention, the request can be forwarded via the Central Authorities.

It must be submitted in writing in one of the official languages of the EU or in the national language of the relevant 1996 Child Protection Convention member state and accompanied by a translation in the national language of the host state.

The request is then sent by the Federal Office of Justice to the central authority of the host state, which in turn forwards it to the locally competent authority in the foreign country. How consent is obtained within a state depends on the respective law of the host state, Art. 82 para. 7 Brussels IIb Regulation or Art. 33 of the 1996 Child Protection Convention.

The consultation procedure must be completed before the decision on the placement itself is made. Therefore, if a child is already in another EU member state or 1996 Child Protection Convention contracting state without the placing German authority having carried out the necessary consent procedure in that state, this constitutes a violation of Art. 82 of the Brussels IIb Regulation or Art. 33 of the 1996 Child Protection Convention with the consequence that the placement decision will not be recognised in the receiving state (Art. 39 para. 1f) of the Regulation and Art. 23 para. 1f) of the 1996 Child Protection Convention). The foreign authorities may then take measures under their own jurisdiction, such as taking the minor into care or appointing a guardian abroad.

In some countries, consent may be refused if the children have already been placed in the country. The foreign authorities then assume that the measure will be terminated in such a case and the child will be brought back.

An extension of the placement or a change of project location must be treated as a new application. The required documents must therefore be resubmitted in good time and the approval procedure must be repeated. If no approval has been received prior to an extension, the child must also be in Germany at the time the application is submitted as part of a new application.

Outside the areas of application of the Regulation or the Convention, there is no internationally regulated consultation obligation. However, Section 38 SGB VIII also applies to these cases and requires corresponding steps to be taken to plan and review the measure. The security otherwise provided by the consultation procedure does not apply in these cases, so it is advisable to check the planned measure very carefully for possible problems and to contact the responsible local specialist agency in advance. The German diplomatic mission abroad or the International Social Service can be consulted for coordination with the specialist centre responsible for the planned destination.

Practical example of placement in a foster family during court proceedings

At nursery school, it is noticed that four-year-old Nadja is brought to school irregularly and is often not dressed appropriately. In the course of the investigation by the youth welfare office, it emerges that the mother is mentally ill, is constantly absent and the father is overwhelmed. The father explains that he no longer sees any prospects for his wife and himself in Germany. His sister in France is prepared to take Nadja in and look after her until the whole family can move. The youth welfare office considers what needs to be done to examine the situation.

Legal provisions to be observed

- Sections 1666 ff. BGB for assessing the risk to the child's welfare and averting it,
- Sections 27 ff. of SGB VIII on the question of what help is necessary and possible.

Obligation of the professionals

Even if neither the child and youth welfare services nor the court actively place the child in this case, the assessment of whether the child's welfare is at risk includes the answer to the question of whether the solution envisaged by the parents is suitable to avert the risk. In addition to clarifying the suitability of the aunt, it is also necessary to check whether the move may result in other dangers for the child. The consequences of Nadja's separation from her parents should also be weighed up and alternative solutions examined.

Options for action

In addition to the opportunity to clarify the previous relationship between Nadja and her aunt in contact with the parents and the child, the youth welfare office or the court has the opportunity to check the framework conditions, such as living space and the suitability of the aunt, by requesting the locally responsible French specialist centre via the central authorities in Germany and France. If a risk can be averted in this way and there are no other doubts about the parents' ability to raise the child, this does not constitute an official decision and implementation of a cross-border stay.

Stays abroad that are based on a private decision by the person with custody are generally not subject to consultation. This includes stays abroad with relatives, friends or in a boarding school.

Nadja's parents' custody rights remain in place even if their child stays in France. It is then advisable to issue a power of attorney for the aunt with parental authority.

Modification

After the mother has to be hospitalised due to her illness, the situation comes to a head and the parents refuse to cooperate. Nadja is taken into care and placed in an on-call foster home. The family court is then called in to decide on custody of Nadja.

Legal provisions to be observed

- Sections 1666 ff. and 1773 ff. BGB on custody and guardianship,
- Sections 27 et seq. of SGB VIII on the question of what help is necessary and possible,
- Art. 82 Brussels IIb Regulation on the handling of the consultation procedure.

Obligation of professionals

If the youth welfare office is appointed as guardian and is considering placing the girl with her aunt in France, the provisions of Section 38 SGB VIII must be observed. Furthermore, in accordance with Art. 82 para. 1 Brussels IIb Regulation, a detailed request for consent must be submitted to France via the Federal Office of Justice, i.e. a consultation procedure must be carried out.

Due to the acceleration requirement in Art. 82 para. 6 Brussels IIb Regulation, the receiving state must generally decide whether to consent to the cross-border placement or refuse it no later than three months after the request is received by the Central Authority. This applies once the documents required for the decision have been submitted in full. If the court in Germany makes a custody decision before the placement in France, this decision will also be recognised in France in accordance with Art. 30 Brussels IIb Regulation.

Options for action

Legal representation by a guardian could also be determined before the placement abroad. The ward's move abroad would have to be authorised in advance by the family court in accordance with Section 1795 Para. 2 No. 3 BGB would have to be authorised in advance by the family court. The same principles then also apply during the stay abroad. A guardian appointed in Germany generally remains authorised to represent the ward in important matters abroad. However, special requirements may arise with regard to the legal structure and practical fulfilment of the guardianship.

The obligations under German law - such as the obligation to maintain regular personal contact in accordance with Section 1790 para. 3 BGB - do not cease to apply even during a longer stay abroad. The decisive factor is that the best interests of the child are always safeguarded by effective legal representation and reliable communication channels, for which the guardian must take suitable precautions. A consultation procedure must also be carried out in this constellation in accordance with the above explanations.

Practical example of intensive educational measures abroad

Jerry is 16 years old and has already dropped out of several youth welfare programmes. He has committed several offences. The youth welfare office responsible for him is now looking into intensive one-to-one socio-educational support in Sweden.

Legal regulations to be observed

- Sections 27 ff., 35a, 38, 45 SGB VIII on educational assistance and the special rules for assistance abroad,
- Art. 82 Brussels IIb Regulation on the handling of the consultation procedure.

Obligation of the professionals

According to the provisions of Section 38 SGB VIII, an examination of the necessity of the implementation abroad as well as the suitability of the measure - the latter on site - is necessary before the decision on the measure is made. Before deciding whether to grant assistance, the youth welfare office may have to obtain a specialist medical or psychological opinion in accordance with Section 35a SGB VIII in order to rule out a mental disorder that would prevent a measure abroad. In accordance with Art. 82 para. 1 Brussels IIb Regulation, the consent of the competent authority in Sweden must also be obtained before the measure begins. If you have any questions about the procedure, you can contact the Federal Office of Justice (see 2.7.1 above).

The application for the cross-border placement of a young person in Sweden may only be submitted by the competent authorities. These include the youth welfare office in charge of the case and a German court. Independent child and youth welfare organisations or services are not authorised to submit such a request independently to the foreign state or the central authorities.

In the justification of the request, the youth welfare office must substantiate the particular necessity of providing assistance in Sweden. In particular, the lack of suitable domestic assistance options, Jerry's individual support needs and the professional suitability of the proposed service provider must be addressed.

The service provider must have a valid operating licence in accordance with Section 45 SGB VIII for a facility inside Germany, in which educational assistance may be provided, or must be authorised as a recognised provider of child and youth welfare services within the meaning of Section 75 SGB VIII. It must also be ensured that they comply with the legal provisions of the host country, including residence regulations. Only professionals within the meaning of Section 72 para. 1 SGB VIII whose personal suitability and qualifications meet the requirements of the respective task may be commissioned to provide assistance. An appropriate additional qualification is also required where the level of care intensity or the specific target group of the measure makes this necessary.

Before the start of the measure, a written agreement must be concluded with the service provider that regulates the quality standards of the assistance and considers the relevant state-specific guidelines or regulations of the supra-local organisation. The provider is obliged to report to the youth welfare office immediately on any incidents or developments that could jeopardise the welfare of the young person. The review and updating of the assistance plan must be carried out at the place where the service is provided, whereby the current state of development and the achievement of objectives must be documented.

If the agreed quality requirements or legal requirements are no longer met during the implementation of the measure, the placement abroad must be terminated immediately and a decision made on suitable follow-up measures.

Options for action

When planning assistance, the time frame of the stay abroad and any follow-up assistance for Jerry must also be considered. The options for follow-up support for him in Germany should already be secured at the beginning of the educational support and provided for in the support plan.

An early, regular and well-functioning flow of information should be ensured between all those involved in the assistance process and persons affected by it (in particular: the youth welfare office, the independent organisation - possibly with its cooperation partners in the host country - and the competent authorities in the host country).

During preparation and implementation, the youth welfare office specialist will be dependent on the co-operation of the provider of the measure. However, independent information is also necessary in order to assess the suitability of the placement.

This usually requires a personal presence abroad - before the start of the measure and for help planning. As part of the consultation process, it is clarified to what extent the foreign specialised agencies are willing to cooperate and can be involved in safeguarding the child's welfare.

If a placement in a non-contracting state is the only suitable and necessary measure to be considered, transparent preparation and monitoring of the measure must nevertheless be carried out in a comparable manner. It is advisable to check the planned measure very carefully for possible problems and to contact the responsible local specialist centre in advance. Depending on the country and the measure, the International Social Service of the German Association for Public and Private Welfare or the German diplomatic mission abroad can be asked to provide regular reports or assistance in finding local organisations.

2.6.2 Placement in Germany

Background

Cases of cross-border placements of children in Germany relate to the following areas. These often include the admission of children in family care³⁶, in particular kinship care, or on the basis of a "kafala"³⁷, but also, for example, admission to facilities that are not available abroad.

The following applies to contracting states: In accordance with Art. 82 para. 7 Brussels IIb Regulation and Art. 33 of the 1996 Child Protection Convention, the law of the respective host state determines how consent is obtained or granted within a state. In Germany, Sections 45-47 IntFamRVG apply in this respect.

The competent authority for granting consent and conducting proceedings in the case of requests from abroad is governed by Section 45 IntFamRVG, while Section 46 IntFamRVG regulates the requirements for consent to a placement request. According to Section 47 IntFamRVG, the consent of the state youth welfare office is only permissible with the authorisation of the competent family court.

If a specialised agency from a country that does not fall under the scope of application of the Brussels IIb Regulation or the 1996 Child Protection Convention intends to place a minor in Germany by an authority or court, a consultation procedure is not required. If necessary, ISD may be asked for assistance in clarifying questions in order to clarify technical doubts about the placement that has usually already taken place.

³⁶ This also includes the relocation of the foster family with an already placed child.

³⁷ A kafala is an independent option recognised in Article 20 of the UN Convention on the Rights of the Child for the extra-familial care of children in Islamic culture, which is accompanied by an obligation to provide maintenance and assistance. The child is entrusted to the foster parents for care and upbringing while retaining its biological origin through the transfer of parental care. The legal effects of kafala are therefore similar to a permanent fostering relationship associated with guardianship. Kafala is expressly recognised as a form of placement in Art. 33 KSÜ.

Practical examples

1. *A German-Moroccan couple living in Germany would like to look after a child from Morocco. The parents abroad have died. It is not possible for the child to be cared for by relatives in Morocco. As adoption is not possible under Moroccan law, they have been granted a kafala in Morocco, by means of which they could take the child into their household as a foster child.*
2. *A single mother from Poland can no longer ensure the care and support of her child. The child's father is unknown. The grandparents on the mother's side live in Germany and agree to take the child into their household. The child has also lived with the grandparents in Poland and already speaks a little German.*
3. *An underage girl from Luxembourg is accommodated in a clinic for anorexics in Germany. There is no clinic specialising in this problem in Luxembourg. The girl also speaks German.*

Legal regulations to be observed

The placement of a child from abroad in a foster family or in an institution in Germany requires a so-called consultation procedure in accordance with Art. 82 Brussels IIb Regulation or Art. 33 of the 1996 Child Protection Convention (see 2.7.1 above). Art. 33 of the Convention recognises kafala as a special form of placement.

If the foster parents have already obtained a "kafala", a consultation procedure can no longer be carried out. If the kafala is granted before consent to the cross-border placement is given or during the consultation procedure, this constitutes a procedural error within the meaning of Art. 33 of the 1996 Child Protection Convention. The Convention does not provide for a catch-up. In the case of example 1, this means that no consultation procedure is possible. Rather, the potential foster parents should be checked for their suitability for fostering in accordance with national principles before the kafala is granted. In this context, the approval granted does not guarantee that a visa will be issued in a timely manner.

The recipient of the application for the Federal Republic of Germany is primarily the Federal Office of Justice in Bonn in accordance with Section 3 IntFamRVG. Alternatively, the application can also be submitted directly to the State Youth Welfare Office as another competent authority within the meaning of Art. 33 para. 1 of the 1996 Child Protection Convention. The State Youth Welfare Office must assess on the basis of its own expertise whether the planned placement of the child is in the child's best interests. The consultation procedure must always be completed before the decision on the placement itself is made. The procedure must be repeated if a temporary measure expires or if there is a change of facility.

If a placement is based solely on a private decision by the custodian to place the child with relatives, there is exceptionally no need to carry out a consultation procedure (see Art. 82 Brussels II b Regulation). This would be the case in example 2, as the grandparents are second-degree relatives. In the case of relatives who are not related to the child up to the third degree, but more distantly related, a care licence in accordance with Section 44 SGB VIII from the responsible German youth welfare office. The licence must be refused if the welfare of the child or young person is not guaranteed.

The consultation procedure is mandatory for placements initiated by the authorities, if foreign courts or authorities have acted, for example in the case of taking into care or custody decisions.

If the consultation procedure is not carried out correctly, there are subsequent problems such as

- it is not possible for the youth welfare office to provide appropriate professional support due to a lack of knowledge,
- foreign decisions cannot be recognised and enforced in cases of doubt, cf. Art. 39 para. 1 letter f Brussels IIb Regulation and Art. 23 para. 2 f) of the 1996 Child Protection Convention,
- the foster parents would be committing an administrative offence (Section 104 Para. 1 No. 1 SGB VIII) in cases where a care permit required under Section 44 SGB VIII is not available,
- difficulties may arise with regard to costs, health insurance and residence law.

The consultation procedure is organised as follows:

The state youth welfare office of the federal state in which the placement is to take place is responsible. After receiving the request, the state youth welfare office will check whether the requirements for consenting to the intended placement of the child in the Federal Republic of Germany are met, as set out in Sections 45 et seq. IntFamRVG. According to this, the competent state youth welfare office should generally consent to the request in accordance with Section 46 (1) nos. 1-6 IntFamRVG if

- the realisation of the intended placement in Germany is in the best interests of the child, in particular because it has a special connection to Germany, see section 46 para. 1 no. 1 IntFamRVG. For example, language skills or relationships with relatives living in Germany must be taken into account. The requesting foreign authority provides a report from an authority that has assessed the best interests of the child. Any queries can be clarified via the Federal Office of Justice or ISS Germany – ISD. A careful examination of the foreign agency is necessary, as the child may have to leave its familiar living environment.
- Furthermore, the foreign agency must submit a report or a medical opinion stating the reasons for the intended placement abroad, Section 46 Para. 1 No. 2 IntFamRVG. This should state the extent to which the planned placement is in the best interests of the child despite the drastic change in life. An institutional placement also presupposes that no suitable placement is possible in the country of origin. In case 3, there is no institution in the country of origin that specialises in the child's problems.
- Special requirements apply to cross-border placements involving deprivation of liberty. According to Section 46 para. 2 IntFamRVG, this requires both a court order in the requesting state/country of origin and an examination by the state youth welfare office and the court as to whether the requirements for a closed placement pursuant to Section 1631b BGB are met.
- The child must be heard unless a hearing appears inappropriate due to the child's age or degree of maturity, Section 46 para. 1 No. 3 IntFamRVG. It should already be clear from the report of the foreign agency that the child has been heard, otherwise the hearing must take place later. The question of eligibility to be heard is governed by domestic law, in Germany a child is to be heard in a child-appropriate manner as soon as it has acquired the ability to express itself (from approx. 3 years of age).

- The suitability of the foster family to take in the foster child must be proven in the case of family fostering and, if necessary, a fostering licence must be issued (Section 46 para. 1 No. 4 IntFamRVG). In addition, the consent of the foster family is required and there must be no reasons preventing the child from being placed there. Suitability is checked by the youth welfare office responsible at the place of residence.
- It should also be clarified how legal representation is organised if the legal guardians continue to reside abroad. This can be important for further applications, e.g. for educational assistance in accordance with SGB VIII.
- According to section 46 Para. 1 No. 5 IntFamRVG, it is necessary that the required authorisation under foreign law has been granted or promised. In the case of children from non-EU countries, a visa must always be applied for in order to enter the country. It should be emphasised here that the approval in accordance with section 46 Para. 1 No. 5 IntFamRVG is not the granting of the visa for entry, but rather the approval or refusal of entry itself is a basic prerequisite for the consultation procedure, after the successful completion of which a visa can be issued.
- In the case of placement from another EU country, a right to freedom of movement for non-working EU citizens is regularly assumed under the conditions of Section 4 of the Freedom of Movement Act/EU in accordance with Section 2 para. 1, 2 sentence 1 no. 5. According to section 4 sentence 1, they must have adequate health insurance cover and sufficient means of subsistence (see section 4 sentence 1). The locally competent immigration authority can demand that the health insurance cover and the means of subsistence be substantiated.
- The assumption of costs must be regulated, section 46 Para. 1 No. 6 IntFamRVG: In principle - according to the German view - the relinquishing state is responsible for the costs of the child's care and upbringing. To this end, the state youth welfare office obtains a declaration of assumption of costs from the relinquishing state. However, the legal systems of the relinquishing states generally provide for a change of responsibility after one year, which means that the obligation to bear the costs also ends under local law. In the event that the child is placed with a foster family, the foster parents may be entitled to foster care and child benefit. If necessary, the Youth Welfare Office must clarify the assumption of living costs and health insurance before granting a foster care licence.
- A further requirement under Section 47 IntFamRVG is that the family court at the location of the seat of the respective higher regional court approves the intended consent in advance. It carries out its own enquiries for this purpose. The family court can also refuse authorisation. It decides by means of an incontestable order. The State Youth Welfare Office decides after examining the requirements of sections 46 ff. IntFamRVG on the authorisation of the placement and gives its approval. Otherwise, it shall state the reasons if consent is refused. The decision of the State Youth Welfare Office is incontestable.

Obligation of the professionals

In the case of residential care, the child and youth welfare professionals check whether an operating licence has been granted in accordance with Section 45 SGB VIII. The pedagogical concept of the facility must also be checked against the reasons for placement.

The foster care service is obliged to check the suitability of potential foster parents and to issue a foster care licence if this is necessary. On the one hand, the general criteria must be checked. In the case of kinship care, a suitability check of the foster parents must also be carried out, as the State Youth Welfare Office must check whether the child's welfare could conflict with a placement.

It must also be clarified who is responsible for the child's living costs.

Options for action

The state youth welfare office is responsible for authorising the placement of a child from abroad. The youth welfare office advises and checks the potential foster family in accordance with general professional standards and issues a foster care licence if necessary.

2.7 Unaccompanied foreign minors³⁸

Background

Unaccompanied foreign minors are considered to be particularly vulnerable.

They are often heavily burdened by the loss of family and home as well as traumatising experiences during their flight. The procedure for taking unaccompanied minors into care in accordance with Sections 42a et seq. SGB VIII is generally divided into two phases: Provisional taking into care in accordance with Section 42a SGB VIII takes place at the place where the minor is first apprehended or reports to the youth welfare office themselves. As part of the provisional taking into care, it is determined which youth welfare office is locally responsible for the subsequent taking into care in accordance with Section 42 SGB VIII.³⁹ The nationwide distribution quota and the requirements of the best interests of the child are decisive for this.

During temporary custody, the youth welfare office carries out an initial clarification of the situation - in particular with regard to minors⁴⁰, accompaniment and possible obstacles to distribution - and assumes legal representation of the young people. Refugee minors sometimes arrive without their parents, but are accompanied by persons who have parental authorisation to take care of them. Verification by the youth welfare office includes the authenticity of the authorisation, proof of parenthood and the possibility of contact with the parents through discussions with the young person, the parents in the home country and the accompanying person. The power of attorney is terminated by revocation by the parents if the authorised representative is no longer willing to care for the minor or if there is no longer any possibility of consultation with the parents. A guardianship must then be set up. Conscientious examination and support should not only ensure that the rights of the minor are fully protected⁴¹, but also that abuse and the risk of exploitation and trafficking are excluded as far as possible.

38 Detailed information can also be found at www.b-umf.de (last accessed: 24 September 2025).

39 The implementation of the distribution procedure is excluded by Section 42b Para. 4 No. 4 SGB VIII if they child is not taken into care within one month of the provisional taking into care. The youth welfare office that first takes custody can always voluntarily assume responsibility in accordance with Section 88a SGBVIII for reasons of the best interests of the child or for other humanitarian reasons.

40 For information, see Achterfeld, S.: Age assessment of unaccompanied minor refugees, in: Das Jugendamt 6/2019, pp. 294-298.

41 Minors who enter the country accompanied by a person authorised to take care of them ("legal guardian" within the meaning of Section 7 Para. 1 No. 6 SGB VIII) are not considered unaccompanied. The accompanying person represents the interests in the asylum procedure in accordance with the BAMF's instructions of June 2024. Cf. BAMF, Dienstweisung Asyl, status: 12 June 2024, available at: <https://b-umf.de/src/wp-content/uploads/2024/06/da-asyl-stand-12062024.pdf> (last accessed: 24 September 2025).

It is also checked whether a person related to the minor is staying in Germany or abroad. According to Section 42a para. 1 sentence 2 clause 2 SGB VIII, married minors who are not travelling with a legal guardian are also to be considered unaccompanied. In this context, the Act on the Protection of Minors in Marriages Abroad of 27 June 2024⁴² must be observed and the consequences of a marriage concluded abroad for the protection mandate must be examined. For the applicability of the provisions of Sections 42a et seq. of Book Eight of the Social Code, it is irrelevant which country the minors come from and what legal residence status they have in Germany. Consequently, these regulations also apply to unaccompanied minors from other EU countries.

Practical example

Aliya is 15 and comes from Somalia. She was picked up by the police in Rosenheim, taken into temporary custody, relocated to Munich and applied for asylum on behalf of the guardian appointed for her. She expresses the wish to go to her uncle in the Netherlands.

The Munich Youth Welfare Office asks the Federal Office of Justice for a report on the uncle's living conditions and his willingness and ability to take the girl into his care.

Legal regulations to be observed

- Sections 42a ff. of SGB VIII,
- Art. 80 Brussels IIb Regulation,
- Regulations on family reunification (Residence Act, Dublin III Regulation)⁴³.

Obligation of the professionals

Once the unaccompanied minor has been taken into care, it is the task of the child and youth welfare professionals to develop possible future prospects together with the unaccompanied minor as part of the subsequent clearing procedure, considering the prospects under asylum and residence law. The options regularly include remaining in Germany, returning to the country of origin or moving on to another country.

If the future prospects lie outside Germany, the transfer of custody rights must also be organised: Specifically, this means that the guardianship appointed in Germany may only be terminated once parental custody of the unaccompanied minor has been clarified in the country of origin or another country. On return to the parental home, parental custody is generally reinstated. In the case of family reunification with other relatives, it must be checked whether the relatives are willing and suitable to take on the role of guardian or whether a solution comparable to the legal instrument of official guardianship is preferable.

If there are future prospects within Germany, professionals should check together with the young people whether an application for asylum with the prospect of protection status under the Geneva Refugee Convention can be made - as this creates a perspective for family reunification.⁴⁴

⁴² Accordingly, marriages entered into with the participation of a person under the age of 16 are automatically invalid in Germany.

⁴³ Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast).

⁴⁴ The Act on the Suspension of Family Reunification with Beneficiaries of Subsidiary Protection, in force since 24 July 2025, prohibits the granting of visas for the purpose of family reunification to persons with subsidiary protection status up to and including 23 July 2027. Sections 22 and 23 of the Residence Act should make it possible to assert hardship cases.

Unaccompanied minors who do not receive refugee status can often secure a longer-term residence permit through education or vocational training (for more details, see 3.5). If family members are in a member state of the Dublin III Regulation, the application for asylum creates the basis for Dublin family reunification, possibly in Germany, if the best interests of the child would not be guaranteed in the other member state.

Options for action

The issue of family reunification often plays a central role in the development of prospects for unaccompanied minors as part of the clearing procedure. In this process, the International Social Service provides legal advice, supports with socio-pedagogical issues and networks with relevant stakeholders. ISS Germany – ISD and the Federal Office of Justice can assist in the verification of relatives by obtaining social reports from abroad.

2.8 Young Adults

Background

Although the age of majority of 18 years largely applies internationally, in some countries the age of majority is not reached until the age of 21. The question of whether a person is considered a minor or an adult is to be linked to the habitual residence for German law in accordance with Art. 7 para. 2 sentence 1 Introductory Act to the Civil Code – EGBGB⁴⁵ (legal capacity). This means that for young people who have their habitual residence in Germany, the age of 18 is uniformly decisive, as is also the case in the context of asylum and residence law (see for example Art. 2 i) Dublin III Regulation).

The scope of SGB VIII also includes the provision of assistance for "young adults". According to Section 7 para. 1 No. 3 SGB VIII, a "young adult" is a person who is 18 but not yet 27 years old. As a rule, assistance is only granted up to the age of 21, and only in justified exceptional cases beyond this, Sections 41, 41a SGB VIII. In contrast to minors, assistance for young adults is not intended to compensate for educational deficits. Rather, they receive help "if and as long as their personality development does not guarantee a self-determined, autonomous and independent lifestyle". The termination of assistance does not preclude the granting or continuation of assistance for young adults.

However, coming of age does not necessarily mean that young people are allowed to make their own decisions about their lives. Forced marriage, abduction, confiscation of identity papers, prevention of return to Germany threaten both minors and young adults. Young people often come of age abroad, which gives rise to new aspects for possible repatriation (see 2.4). It is also possible that a need only becomes apparent at a late stage due to the personal or family migration history, for example because a young woman first has to free herself from dependencies such as an arranged marriage or a young adult first has to find a safe environment after fleeing.

45 New regulation from 1 January 2023.

Practical example

Peter has been living with a foster family for eight years and the youth welfare office is his guardian. He moved to Portugal with the foster family three years ago and will soon be 18 years old. He is still attending school and will not be able to graduate for at least a year. Peter asks whether the help can be continued.

Legal regulations to be observed

- Section 4 1 SGB VIII on assistance for young adults,
- Section 41a SGB VIII also enables temporary support after the end of assistance (aftercare).

Obligation of the professionals

Before a young person reaches the age of majority, it must be planned and clarified in good time what the young person's next steps will be once they have reached the age of majority, what help they still need and what support is required to help them develop their personality and take responsibility for their own lives. Especially for young people who are abroad, it is important to clarify in good time what help they need and what entitlements they have.

Options for action

Appropriate clarification should take place in good time before they reach the age of majority and 21 years of age. Sufficient time should be allowed for this, especially if a report is to be obtained from abroad.

2.9 Guardianship

Background

Various situations arise here: A ward may have gone abroad, they may have been taken away by the carer, all of this may have happened prepared or unprepared. In all cases, questions arise for guardians about how to proceed: A guardianship does not end when the ward moves away, but the guardianship must be terminated by the family court and the guardian dismissed.⁴⁶ If the guardian does not feel able to exercise the guardianship sensibly, he/she must inform the family court, which will decide on the question of guardianship. Until the guardianship is terminated by the court, the guardian must do everything possible to fulfil their duties in a meaningful way. This also includes searching for the ward, e.g. by filing a missing person's report and possibly involving the Federal Office of Justice or ISS Germany – ISD.⁴⁷ This may also include clarifying the ward's situation abroad in order to decide whether the ward is in good hands there. If the ward is planning to move abroad, the consent of the family court must be obtained in advance.⁴⁸

⁴⁶ Sections 1804 et seq. BGB.

⁴⁷ Within the scope of application of the Brussels IIb Regulation, the route via the Central Authorities is now mandatory, see below.

⁴⁸ Section 1795 para. 2 no. 3 BGB.

But is the guardian able to act abroad? In principle, yes, at least within the scope of the Brussels IIb Regulation and the 1996 Child Protection convention: the decision on guardianship is a decision on parental responsibility within the meaning of these two instruments and is therefore to be recognised under both. However, the guardian's scope of action varies from country to country: depending on the national law, it may be that his or her power of disposal is recognised or that he or she requires a surrender decision, in particular for the return of his or her ward.⁴⁹

A further area of activity with a foreign connection is the acceptance or waiver of inheritances arising abroad, which are generally subject to the national inheritance law of the state in which the inheritance arose.

Practical example

The youth welfare office is the official guardian for two children whose parents have died in an accident. The grandparents actually live in France, but move with the children to their parents' home in Germany after their parents' death. After some time, they give notice to leave the flat and move to France with the children without consulting the official guardian.

Legal provisions to be observed

- Section 1795 para. 2 no. 3 BGB (authorisation by the family court),
- 1804 ff. BGB (cancellation of the requirements for guardianship),
- Art. 30 Brussels IIb Regulation (on the recognition of German court decisions (such as the appointment of a guardian) in other EU countries).

Obligation of professionals

The guardianship order remains valid in France. Decisions issued in an EU member state are recognised in the other member states in accordance with Art. 30 ff. of the Brussels IIb Regulation without the need for a special procedure.

For direct recognition, only a copy of the decision and a certificate in accordance with Art. 36 of the Brussels IIb Regulation must be submitted (certificate on decisions on parental responsibility). This certificate can be obtained on request from the registry of the court that made the decision.

The guardian must check the whereabouts of the children and, if this is not known, file a missing person's report with the police. If the whereabouts are known, the guardian must check whether the child's welfare is safeguarded. To do this, they should obtain a comprehensive picture of the children's living situation in France. This includes checking the best interests of the child, the will of the children with regard to their prospects, the living environment and the school situation.

If the assessment is positive and the children's prospects in France are favourable, the guardian should clarify with the grandparents, if necessary, whether it makes sense to continue the guardianship in Germany.

⁴⁹ Experience in this regard can be obtained from the Federal Office of Justice or ISS Germany – ISD. In the area of application of the Brussels IIb Regulation, the route via the central authorities is now mandatory, see below.

Options for action

In this context, the difficulty of complying with the legal requirement to maintain personal contact with the wards must also be considered. It is therefore recommended that the best interests of the child are at least checked by the specialist centre in France in order to be able to provide the appointing court with proof of action. However, this does not replace personal contact with the wards.

The guardian can obtain information about the child from abroad via the Federal Office of Justice (in cases outside the Brussels IIb Regulation also via the International Social Service). In practice, the basic possibility of obtaining a social report in accordance with Articles 79(b), 80(1) Brussels IIb Regulation or Article 32(a) 1996 Child Protection Convention is particularly relevant here.⁵⁰ In accordance with Article 78(3) Brussels IIb Regulation, the route via the Central Authorities has priority and is mandatory within the scope of application of the Brussels IIb Regulation.

The transfer of guardianship can be initiated either by an application from the grandparents or by transferring responsibility to the French judiciary in accordance with Art. 12 Brussels IIb Regulation.

Digression

If a guardianship is to be appointed for a child without German citizenship in Germany, the Vienna Consular Convention must be observed. According to this, the competent family court should notify the consulate/embassy accordingly as a rule (except in cases of conflict with the best interests of the child, usually fugitive children) - as long as the non-German minor belongs to a state party to the Vienna Convention on Consular Relations – VCCR (adopted in 1963). The basis for this are Art. 5h and 37b VCCR; as well as the order on communications in civil matters.⁵¹ The diplomatic mission has the right and the duty to inform itself about the situation of its national. Without this involvement, problems often arise later when it comes to obtaining documents and identity papers for the child.

⁵⁰ Experience values for the individual countries can be obtained from the Federal Office of Justice or the ITS.

⁵¹ There, under XIII "Notifications in child custody matters, parentage matters and proceedings under the Transsexuals Act", No. 14 "Notifications of facts giving rise to family court measures within the scope of the Vienna Convention of 24 April 1963 on Consular Relations".

3. Legal Basis - International does not equal international

A mother moves to Germany with her child born abroad after separating from the child's father, who is not married to her. After some time, the question arises as to who is the holder of parental custody.

In addition to a complex understanding of the case, cross-border constellations require linguistic and intercultural skills. Legal questions often arise, both in social and child and youth welfare law in an international context and in relation to international family law.

Before a matter of international custody or access law can be brought to a substantive legal decision, the questions of international jurisdiction and applicable law must be answered. There are basically two possible points of contact: the authorities of the country of habitual residence or the authorities of the home country and the law of the country of habitual residence or the law of the home country.

For the determination of the applicable law of parental custody, Art. 16 para. 3 of the 1996 Child Protection Convention, ratified by Germany in 2010, ensures that a parent with custody rights does not lose the parental custody rights once legally established when the child changes its habitual residence (so-called "rucksack principle"). If the law of the former habitual residence also grants unmarried fathers joint custody rights from birth, this would have to be accepted in Germany. In the case of a custody decision that has already been made, the question of recognition must be examined.

Within Europe, the Brussels IIb Regulation plays the decisive role for the question of the (international) jurisdiction of authorities and courts, for the recognition and enforcement of decisions in parental responsibility proceedings, taking precedence over all other conventions. However, unlike the Hague Conventions, this does not contain any rules on the applicable law, so that the provisions of the 1996 Child Protection Convention must also be applied to this issue.

Each state also regulates in its private international law (IPR)⁵² which national law it applies if a situation has a foreign element (e.g. due to the nationality of the parties concerned). Since each state has its own regulations, two IPR systems are always applied, which can lead to different, even contradictory, competences and results.

To solve the problem of conflicting national legal systems, the Hague Conference has drawn up several conventions dealing with the protection of children in international contexts. These take precedence. In contrast, national conflict-of-law rules are only applied on a subsidiary basis.

What all these conventions in international family law have in common, however, is that they place habitual residence before nationality as a connecting factor. The principle is that the competent court applies the rules applicable in its own country.

The UN conventions, in particular the UN Convention on the Rights of the Child (UNCRC), must always be observed in all matters relating to children. This has been ratified by almost all countries in the world. It stipulates that the best interests of the child must be a primary consideration in all actions taken by private or public institutions (Art. 3). The UNCRC does not contain a definition of the best interests of the child, which means that the best interests of the child must be determined in each individual case against the background of the particular circumstances of the case.

⁵² In German law in the Introductory Act to the German Civil Code (EGBGB).

3.1 Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction (1980 Child Abduction Convention)

A mother has moved with her child from Germany to Australia against the wishes of the father, who has (joint) custody of the child, because she has received an attractive job offer there.

The 1980 Child Abduction Convention came into force for Germany on 1 December 1990. This Convention is now in force in over 100 countries.⁵³ It enables civil proceedings to be initiated, according to which the return of the child to the country of origin can be applied for. It is conceivable that criminal proceedings may be initiated in parallel to the civil proceedings on the grounds of child abduction (Section 235 para. 2 of the German Criminal Code). These proceedings are not linked to each other.

Child abduction in the civil law sense of the 1980 Child Abduction Convention is defined as a wrongful removal or retention. This is the case when

- a person - usually a parent - has taken a child abroad against the will of the other parent or refuses to return the child to the country of origin (e.g. after a permitted stay abroad), thereby violating the (joint) custody rights of the person left behind. In addition, many legal systems also prohibit the parent with sole custody from relocating abroad without the consent of the other parent,
- the left-behind parent actually exercised his or her custody rights at the time of the removal or retention.
- A further prerequisite for filing an application is that the child has not reached the age of 16 (Art. 4). At the time of the abduction, the 1980 Child Abduction Convention must have been in force between the two countries concerned.

The left-behind parent can file an application for return under the 1980 Child Abduction Convention if the above conditions are met. However, in certain cases, other persons can also make a claim in addition to the left-behind parent. This is usually the case with (official) guardianship and a transfer of the right to determine residence. In such constellations, a youth welfare office can also be an applicant in the so-called Hague return proceedings.

In this conflict and crisis situation, the left-behind parent is entitled to counselling and support from the youth welfare office in accordance with Sections 17 and 18 SGB VIII. A parent's entitlement exists regardless of whether the child is in Germany or not.

A return decision under the Hague Convention is not a decision on custody. The sole purpose of the return is to correct the abduction and restore the previous status. In addition, the international jurisdiction of the courts of the former habitual residence, i.e. the state of origin, should be maintained so that a final decision can be made there for the future of the child without the risk of conflicting decisions in the state of origin and the state of residence. The 1980 Child Abduction Convention assumes that it is generally in the best interests of the child if the abduction is reversed as quickly as possible and therefore generally provides for return. Exceptions are handled restrictively (see Obstacles to return, below).

⁵³ A current list of contracting states can be found at https://www.bundesjustizamt.de/DE/Themen/Familieinternational/Sorgerecht/Staatenliste/Staatenliste_node.html (last accessed: 24 September 2025).

The application for return can be submitted directly to the competent court in the country of destination, to the Central Authority abroad or in your own country. In Germany, the Central Authority is the Federal Office of Justice (see appendix). The necessary application forms can also be requested there. The courts of the country to which the child is returned or retained decide on the application for return. This means that German courts always decide on repatriation if a child has been abducted from abroad to Germany. In Germany, jurisdiction for proceedings under the 1980 Child Abduction Convention has been concentrated in the local district courts located at the seat of a higher regional court (out of a total of over 600 family courts in Germany).

The application should be submitted to the court no later than one year after the wrongful removal or retention of the child. Otherwise, the return that is generally required under the Hague Convention can be waived if the child has settled into its new environment in the meantime. The expiry of the one-year period already indicates that this is regularly the case in the meantime, so that a claim for return in this scenario has very little chance of success.

In the country of abduction, any ongoing custody proceedings must be suspended immediately if the family court there is informed that an application for return has been filed. This notification under Art. 16 of the 1980 Convention is made automatically by the Central Authority. Even if a custody order has already been issued, this does not prevent return in accordance with Art. 17.

Obstacles to return

The return of the child may only be refused by the court if the retaining/removing parent proves in accordance with Art. 13 of the 1980 Child Abduction Convention that

- the other parent has consented to the removal or retention or has subsequently authorised it,
- the return poses a serious risk of physical or psychological harm to the child or otherwise places the child in an unreasonable situation,
- the child opposes the return, provided that the child's will is considerable in terms of age and maturity.

In practice, the bar for determining whether a child's welfare is at risk is very high, so that in the event of a court order, return is the rule and refusal is the rare exception.

Before refusing the return, it must always be examined whether it is possible to avert the alleged danger in the country of origin. However, it must always be borne in mind that the 1980 Child Abduction Convention only obliges the abducting parent to return the child and does not necessarily require the child to be handed over to the left-behind parent. Even the fact that the return of the child involves separation from the previous caregiver - who has taken the child abroad - does not automatically fulfil the criteria of serious endangerment. Finally, it should be borne in mind that precautions and safety measures can usually be taken to rule out a risk or child endangerment for the event of the return. The Brussels IIb Regulation contains specific provisions on this in Art. 27 para. 3 and 5.

Role of the Youth Welfare Office in HCCA proceedings

Under Section 9 IntFamRVG, the youth welfare office is obliged to cooperate in Hague return proceedings. However, in the case of abductions to Germany and judicial return proceedings pending here, the degree of involvement of the local youth welfare office is largely at the discretion of the court as "master of the proceedings". In principle, it is up to the court to decide whether and to what extent to involve the youth welfare office in the return proceedings. The youth welfare office can be asked for support at various stages of the proceedings:

- Involvement to bring about an amicable solution,
- Initiating and facilitating contact with the left-behind parent during the HCA return proceedings,
- Preparation of a social report during the ongoing Hague return proceedings,
- the youth welfare office can be heard by the court,
- Furthermore, the Youth Welfare Office can provide support during the enforcement stage of a legally valid return order, e.g. by being present on site when the enforcement is carried out by a judicial officer, but also by providing assistance in organising the journey home.

The youth welfare office must always bear in mind that return proceedings are not custody proceedings. While the return of a child against the will of the parent with actual custody tends to be the exception in national proceedings, the Hague Abduction Convention requires immediate return - as explained above, not surrender - as a rule. Reasons that oppose return, such as the risk of serious physical or psychological harm to the child, are therefore only relevant in very few exceptional cases and are examined by the deciding court.

Furthermore, according to Section 9 IntFamRVG, the courts are obliged to inform the local youth welfare office of their decisions. This is intended to give the youth welfare office the opportunity to support the parents and the child if necessary and to check what further measures may need to be taken.

A German youth welfare office can also be involved in cases of abduction abroad and judicial 1980 Child Abduction Convention proceedings there. As explained above, in the context of Art. 27 para. 3 Brussels IIb Regulation, the youth welfare office may be asked to provide information on the available protection, care and other assistance options and services in the event of repatriation or to make these available.

In addition, youth welfare offices often learn about child abduction in other counselling situations, e.g. when a parent wants advice on access rights. In any case, it is important for the work with those affected to recognise the special features of the proceedings and to tailor the counselling accordingly.

The 1980 Child Abduction Convention at a glance:

- In force in Germany since 1 December 1990,
- The aim is to return the child to the country of origin as quickly as possible,
- the Convention must be in force between the respective countries,
- there must be an unlawful removal or retention of the child,
- the child had his or her habitual residence in another contracting state prior to this removal or retention,
- the application must be lodged with the competent court before the child reaches the age of 16,
- the application should be made before the expiry of one year from the date of the wrongful removal,
- a return decision does not constitute a custody decision,
- A custody decision should be made in the country of origin,
- Assessment of the best interests of the child limited to the question of return: yes/no.

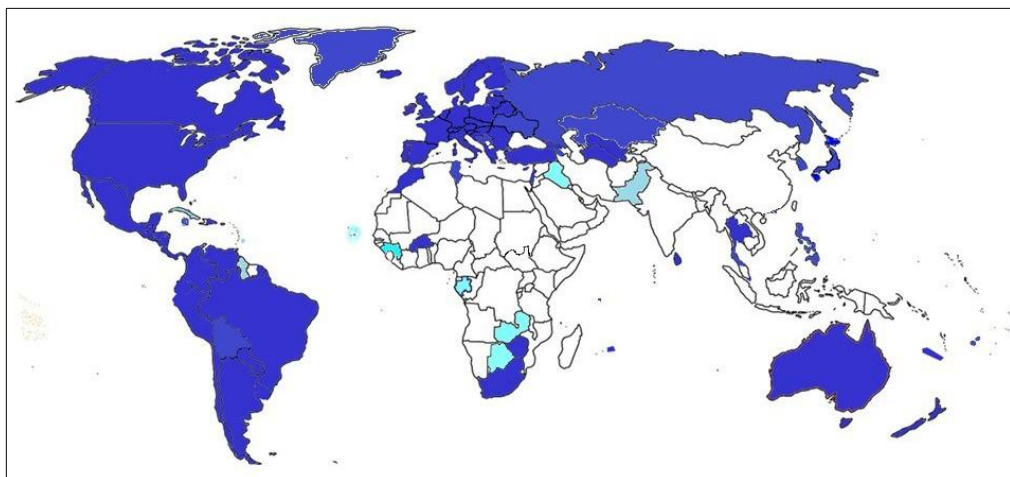


Fig. 1: Contracting states to the HCCA (dark blue = contracting state in relation to Germany; turquoise = no contracting state in relation to Germany), as at: October 2025

3.2 Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children (1996 Child Protection Convention)

A family is accompanied by the youth welfare office following a report of a risk to the child's welfare and before it becomes clear whether the parents can be persuaded to help with upbringing or whether parental custody needs to be restricted, the child suddenly disappears: allegedly with the grandparents in England. How can protection still be ensured?

The aim of the 1996 Child Protection Convention is to protect the rights and interests of children in cross-border situations and proceedings relating to parental responsibility.

issues. It covers all persons under the age of 18, regardless of their nationality. In particular, it covers custody and access rights, but also protective measures.

Common rules on jurisdiction, the recognition and enforcement of judgements, placement and special rules on child abduction, the applicable law and cooperation between courts and authorities - in particular with the help of central authorities - are intended to avoid conflicts between the legal systems. The guidelines are the best interests of the child and the habitual residence. In principle, the state of habitual residence is responsible for all protective measures. Exceptions (e.g. for urgent child protection measures or refugee children) are regulated in Art. 6 et seq. 1996 Child Protection Convention, according to which the state of the actual place of residence must take action. Article 16 should be emphasised, according to paragraph 3 of which legal custody rules, once established, are no longer affected by a change of habitual residence. According to Art. 20, this regulation applies to all minors, not just those from contracting states.

The 1996 Child Protection Convention currently has around 60 contracting states.⁵⁴ It has replaced the Hague Convention on the Protection of Minors of 1961. Within the EU (except Denmark), however, the rules on jurisdiction, recognition and enforcement are superseded by the so-called Brussels IIb Regulation (see Art. 97 et seq. for details). The German central authority under the 1996 Child Protection Convention is the Federal Office of Justice.

The CSCA at a glance:

- Entered into force in Germany on 1 January 2011,
- Material scope of application: state regulations and measures for the protection or care of a child,
- Direct recognition in the contracting states,
- concerns children up to the age of 18,
- Jurisdiction is based on the habitual residence of the child,
- in the area of child protection and for refugee children, the actual place of residence counts,
- contains a catalogue of protective measures,
- Obligation to consult in the case of cross-border placements,
- Nationality not relevant,
- in relation to the 1980 Child Abduction Convention: According to Art. 50 of the 1996 Child Protection Convention, the rules of the 1980 Child Abduction Convention remain unaffected; however, the 1996 Child Protection Convention allows for supplementary provisions, in particular on repatriation and contact,
- Recognition of special care relationships (e.g. Kafala).

⁵⁴ An updated list of Contracting States can be found at <https://www.hcch.net/de/instruments/conventions/status-table/?cid=70> (last accessed: 24 September 2025).

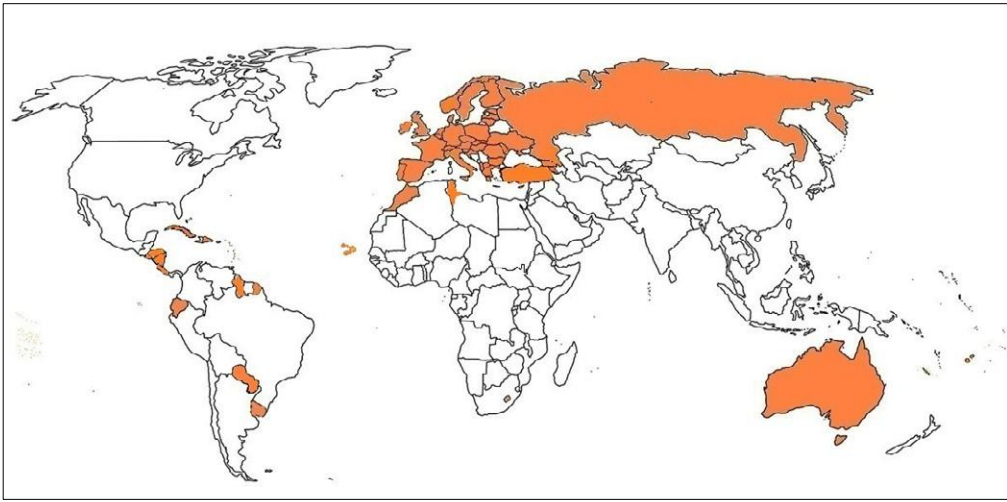


Fig. 2: Contracting states to the CSC, as at: October 2025

3.3 Council Regulation (EU) 2019/1111 of 25 June 2019 on jurisdiction, recognition and enforcement of judgments in matrimonial matters and in matters of parental responsibility and international child abduction (Brussels IIb Regulation).

Following the separation of a German-British couple, the father of the children moves to Germany. The children remain with the child's mother in the UK. The agreed visits with the father of the children become increasingly difficult. The father of the children then applies for a custody arrangement in Germany.

Regulation 2019/1111, also known as the Brussels IIb Regulation, governs jurisdiction in European family law. It replaced the previous Brussels IIa Regulation when it came into force in August 2022. This regulation applies in all EU member states with the exception of Denmark.

The regulation contains provisions on jurisdiction, recognition and enforcement as well as cooperation between the central authorities in the area of parental responsibility and divorce. It does not apply to maintenance proceedings. It also contains provisions to further facilitate the return of children in cases of child abduction (see in particular Art. 27 of the Regulation) and to simplify the enforcement of rights of access.

Amicable settlements, particularly in child abduction proceedings, are to be encouraged. Great importance is attached to the participation of the child, which is why the child's opportunity to be heard is a prerequisite for the recognition of a foreign decision on parental responsibility. Like the 1996 Child Protection Convention, the Brussels IIb Regulation applies to children up to the age of 18, Art. 2 para. 2 no. 6 Brussels IIb Regulation.

In principle, the court at the place of the child's habitual residence is competent. Determining this is not a matter of the child's mere physical presence in the country. It must be more than a temporary presence in the country and integration into a social and family network must be recognisable. However, what is special - and different from the Hague Conventions - is the "perpetuatio fori" provision: if a child moves during ongoing proceedings, the court where the proceedings were initiated retains jurisdiction. The duration of the proceedings is irrelevant. However, the regulation stipulates that interim measures, including protective measures, can be taken in urgent cases, even if the child is only actually resident.

How can a decision on parental responsibility be recognised and enforced in another Member State? A recognition procedure is not necessary. The Regulation provides for recognition by operation of law. Grounds for refusal of recognition or enforcement can be invoked in a separate procedure (Art. 39 et seq., 56 et seq. Brussels IIb Regulation). One of the main aims of the Regulation is to enable the child to have contact with both custodians who live in different Member States following the separation of the child's parents by ensuring that a decision on rights of access issued in one Member State is directly recognised and enforceable in another Member State. The prerequisite for this is that the court of origin issues a corresponding certificate in accordance with Art. 47 Para. 1 a).

Brussels IIb Regulation at a glance:

- Applies in relation to all EU countries except Denmark,
- determines which country has jurisdiction for divorce, custody and access proceedings and takes precedence over all other international regulations,
- ensures that a court order in the above-mentioned areas is recognised and enforceable in every EU country,
- special rules in relation to child abduction,
- regulates the cross-border placement procedure,
- contains provisions on cooperation between central authorities (Art. 76 et seq.),
- mandatory hearing of the child in proceedings concerning parental responsibility.

3.4 International Family Law Proceedings Act (IntFamRVG)

National law is decisive for the implementation of international regulatory mechanisms. For Germany, the International Family Law Proceedings Act (IntFamRVG) contains provisions on jurisdiction and procedure for the implementation and execution of the Brussels IIb Regulation, the CSC, the HCCA and the ES Convention.

Special tasks for the youth welfare offices are regulated in Section 9 IntFamRVG. According to this, they must support courts and the central authority in all measures under the IntFamRVG. In particular, their obligation to co-operate in Hague return proceedings goes beyond the general cooperation in proceedings before the family courts in accordance with Section 50 Para. 1 SGB VIII and includes, for example, support in exercising rights of access and in enforcing orders for return and restitution. The youth welfare office at the child's habitual place of residence is generally responsible.

Section 3 IntFamRVG designates the Federal Office of Justice in Bonn as the Central Authority under the above-mentioned conventions, whose tasks are regulated in Sections 4 to 7 IntFam-RVG. Within the framework of the 1980 Child Abduction Convention and the European Convention on Custody of Children⁵⁵, the Federal Office of Justice also initiates proceedings and acts as an authorised representative for the applicant in return proceedings (Section 6 (2) IntFamRVG), whereby the involvement of lawyers to attend court hearings is common.

According to Section 7 IntFamRVG, the Federal Office of Justice is responsible for determining the whereabouts of the child. Paragraphs 2 and 3 open up investigative methods that are usually used for criminal prosecution purposes, such as access to data from the Federal Motor Transport Authority and social authorities and the Federal

Criminal Police Office's request for information on the child's whereabouts.

In order to ensure that the courts have special expertise and practical experience in proceedings with cross-border implications, Sections 10 et seq. IntFamRVG regulate a centralisation of domestic local jurisdiction. For proceedings for the recognition and enforcement of judgements under the Brussels IIb Regulation, the 1996 Child Protection Convention and the ES Convention as well as for proceedings under the 1980 Child Abduction Convention, Section 12 para. 1 in accordance with Section 10 and Section 11 IntFamRVG, the family court at the seat of the respective higher regional court has jurisdiction.

For Hague return proceedings before German courts, in addition to the concentration of jurisdiction, special features also apply to the appeal procedure (Section 40 IntFamRVG) and enforcement (Section 44 IntFamRVG). There is only a shortened appeal period. The appeal must be lodged and substantiated within two weeks. The court of appeal must review the order for immediate enforcement of the first instance decision *ex officio*.

Finally, Section 44 IntFamRVG contains special provisions for the enforcement of return and surrender orders. In particular, the court must enforce a return order *ex officio*. Sections 44a-44j IntFamRVG regulate the implementation of the special enforcement protection provisions of the Brussels IIb Regulation regarding the enforcement of Member State decisions in another Member State and contain, among other things, a right of the youth welfare office to suspend enforcement limited to Art. 56 para. 4 Brussels IIb Regulation.

The consultation procedure for cross-border placement in Germany described in 2.7 is regulated in Sections 45 et seq. IntFamRVG.

The IntFamRVG at a glance:

- Contains provisions for the implementation of the Brussels IIb Regulation, CSA, HCC and ESC, in particular on the tasks of the Central Authority,
- regulates the jurisdiction of the courts including the concentration of jurisdiction and contains further procedural rules,
- regulates the duty of the Youth Welfare Office to support and cooperate in proceedings (enquiry by courts or the Federal Office of Justice, by means of a request for assistance, the granting of information, preparation of a professional opinion or support).

3.5 Law on the residence, employment and integration of foreigners in Germany (Residence Act – AufenthaltG)

The Residence Act regulates the conditions under which immigration to Germany can take place. The local immigration authority is responsible for measures and decisions relating to residence and passport law in accordance with the Residence Act. In the areas of unaccompanied minors and family reunification, local co-operation between the youth welfare office and the immigration authority is particularly important. Residence decisions must consider the best interests of the child, for example in the case of deportations or tolerated stays. There are also interfaces with family law. Residence law measures and family law proceedings influence each other, e.g. in matters of custody or access rights.

55 European Convention on the Recognition and Enforcement of Decisions concerning Custody of Children and the Restoration of Custody of 20 May 1980.

Securing residence and the possibility of family reunification are often of particular importance when working with unaccompanied foreign minors. If the refugee status of an unaccompanied foreign minor is recognised (Section 25 Para. 2 AufenthG), their parents are generally entitled to family reunification (Sections 29, 36 Para. 1 AufenthG).

A residence permit that is often initially tolerated for the purpose of attending school can later be converted into a residence permit for educational purposes in accordance with §§ 16 ff. Residence Act. With a recognised tolerated stay for training purposes in accordance with section 60c AufenthG or a residence permit for training purposes in accordance with section 16a Auf-enthG, young people can create a secure perspective lasting several years. Family reunification is not possible during this phase. It is only possible after changing to a residence permit as a skilled worker or after a settlement permit has been issued. For unaccompanied minors who go through the education system, the period until family reunification is often several years. Specialists must clearly point this out in the clearing procedure so that expectations remain realistic.

With a settlement permit (Section 9 AufenthG), family reunification is possible under strict conditions in accordance with Section 29 AufenthG; in some cases, this is also possible with a residence permit as a skilled worker (Section 18a or Section 18b AufenthG). In practice, family reunification, which is made possible by law, often proves to be extremely challenging due to the general requirements for granting the permit. As a rule, the livelihood (including health insurance cover) for the entire family wishing to enter the country must be secured and sufficient living space must be available.

Sections 58, 58a and 60 of the Residence Act contain various protection mechanisms against deportation. While Section 58 describes the requirements for deportation, Section 58a allows for its suspension in particularly dangerous situations. According to Section 60, deportation may not be carried out if there is a serious risk of persecution, torture or serious danger to life and limb in the country of origin. For the support of unaccompanied minors and families in practice, this means close cooperation with legal representatives and immigration authorities in order to safeguard the rights of those affected.

The Residence Act at a glance:

- determines the requirements for legal residence and access to residence permits,
- regulates the possibilities and limits of family reunification,
- contains regulations on protection against deportation.

4. A Look beyond the horizon

In the following, the differences in international working methods in the areas of child protection, parental responsibility and contact will be outlined using the countries of Poland, Spain and Lebanon as examples. These three countries have been selected as examples. On the one hand, they represent different views and approaches, and on the other, Poland and Spain in particular are frequently asked about. The respective questions were answered by the working partners of the Inter-national Social Service in the respective country.

I. Child Protection

Case A:

A family with two children (aged four and six) is being looked after by the youth welfare office in Germany. The youth welfare office, as the responsible authority, assesses that the children are at risk and examines the possibility of removing the children and placing them outside the family. The children's parents do not co-operate. Shortly before the children are removed, the parents move to another country with the children.

Is there a central population register to determine the family's whereabouts? If so, who can check this?

- Poland Yes. Courts, state administrative authorities (social authorities), police and third parties can make enquiries to this register (PESEL register) if they provide a valid legal justification.
- Spain Yes. Immigration authority, city/municipal administration, social welfare authority, autonome community.
Registration is mandatory after three months of residence and must be applied for in person at the Central Register of Foreigners within the Immigration Office (Oficina de Extranjeros), alternatively the police station of the respective province.
- Lebanon No. Some information can be obtained from the mayor ("Moukhtar") (with regard to refugees: from the UNHCR).
Prerequisite: suitable documentation from the requesting NGO.

Is there a child protection register? Who can consult it?

- Poland No.
- Spain There is no centralised register, only at the level of the respective Autonomous Community, which is responsible in this matter. There is one for unaccompanied foreign children, which is kept by the Ministry of the Interior (immigration police).
Information from the child protection register can be requested by the child protection authorities, social authorities and the police.
- Lebanon There is a "Child Protection" register, e.g. at the local or international child protection organisations, the Ministry of Social Affairs (MOSA), the Ministry of Justice, the "Judge of minors"/the child protection unit at the Ministry of Justice, at NGOs if the child protection case has been referred to them.

Is there a set procedure for reviewing a child protection case? Which institution is responsible for the review?

- Poland Yes. As soon as the court has been informed of the risk to the child's welfare, a so-called "court curator" (henceforth: court curator) is responsible for carrying out the initial review.
- Spain Yes. The social welfare authority of the child's place of residence, at the request of the child protection authority of the child's place of residence.

Lebanon Yes. Local or international child protection organisations, the Ministry of Social Affairs, the Child Protection Unit at the Ministry of Justice, the Child Protection Unit at the Ministry of Education and Secondary Education and NGOs mandated by the Ministry of Justice.

What is the profession of the professionals carrying out the review?

Poland The court guardian is a person who has completed a degree in psychology, education, sociology or law.

Spain Social worker, psychologist, medical staff. Lebanon Social worker, psychologist, neurologist, forensic scientist.

Who initiates the child welfare review process?

Poland All representatives of the above-mentioned agencies and also anyone who suspects that the child is being harmed. It is known as the "Blue Card Procedure" (procedura niebieskiej karty).

Spain The social services of the municipality where the child lives. Their social workers are the responsible professionals.

Lebanon After a case has been identified by a private individual or an organisation and referred to a child protection authority or MOSA, the body that received the case carries out the review. At Himaya (working partner of the International Social Service in Lebanon), the review process is initiated by the psychosocial team, which consists of a social worker and a psychologist. They create an action plan based on their review/assessment. When a case is received by UPEL (Union of Protection of the Child in Lebanon) at the Ministry of Justice or a man-dated organisation such as Himaya, they can initiate the child welfare review or assign an organisation to conduct the review.

Can the organisation in charge of the review initiate a review itself?

Poland Yes.

Spain Yes, although this is not necessarily recommended, it can always be initiated through the municipal social services at the child's place of residence.

Lebanon Yes, but each agency requires a declaration of consent from the child's legal guardian before the review can be initiated.

Is there an obligation to carry out a home visit to check the child's welfare?

Poland There is only an obligation once the court has been informed of the risk to the child's welfare.

Spain Yes.

Lebanon In all cases where a review takes place, a home visit is considered necessary to better understand the child's environment and any additional risk or child protection factors. However, each NGO has its own tools. Home visits are a mandatory tool within *Himaya*.

If so, who is carrying it out?

Poland The guardian ad litem.

Spain The social worker.

Lebanon If necessary, the social worker can be accompanied by another team member, e.g. another social worker or the senior case manager.

Who may or must be involved in the assessment of a risk report?

Poland The district public prosecutor's office can be involved if the circumstances constitute a criminal offence. The Blue Card procedure can also involve Doctors, psychologists, teachers and other persons as required.

Spain There is a network (network of professionals) of all actors involved from the

neighbourhood and the areas of health, police, school and social services.

Lebanon Legal advisors, psychiatrists, forensic experts, medical experts (authorised by the court), educational teams (from the school), any professional who is in daily contact with the child.

Is the child themselves interviewed?

Poland Yes, if a report of a suspected offence is received, the child will be questioned by the court. This is not possible in the Blue Card procedure.

Spain Depending on the age of the child, a more or less direct method of dialogue will be used - through games, drawings, stories, more direct conversation, etc.; however, a face-to-face meeting with the child will always take place.

Lebanon The screening process at *Himaya* is based on a family-centred approach; parents and children are approached personally to conduct the screening. A gentle approach is used towards the child by the professional - i.e. generally a trained mental health professional - e.g. through drawing or playing, while a social worker interviews the caregivers. In court, the hearing also includes a direct interview with the child (in a specially adapted room for children) in the presence of a social worker.

Does the child have to be seen in person?

Poland No.

Spain Yes.

Lebanon Yes, with the consent of the parents or legal guardian, usually in our child-friendly rooms, but in a complex situation (disaster/war) or in the case of a disability that makes access to our premises difficult, a virtual interview can also be conducted.

Who decides whether or not a child's welfare is at risk?

Poland In the Blue Card procedure: Members of a so-called "working group" consisting of representatives of the local social authorities, school, police, municipal commission for solving alcohol problems and medical institutions. In criminal proceedings: the public prosecutor.

Spain If there are indications of a risk, the local social welfare authority makes a formal declaration of the risk situation and draws up a support plan to help the family overcome the risk factors with the aim of preventing the risk from resulting in the removal of the child. In this support plan, the family signs a commitment on the necessary protective measures to be taken/initiated. If a situation of serious abuse or endangerment is identified, steps are taken quickly to remove the child in order to protect it from harm and to enable the situation of endangerment to be clarified.

Lebanon After the review by both team members, the psychologist and the social worker exchange the information gathered (medical history, home visit, interviews) and decide together which solution is best for the child's welfare and for the family. They present the support plan and the intervention concept to the senior case manager, who reviews them.

Who decides on further necessary steps?

Poland In the Blue Card procedure, the chairperson of the interdisciplinary team, who is appointed by the working groups.

Spain The child protection authority. If the potential risk situation develops into an actual risk to the child, the case is forwarded to the guardianship commission, which will decide on the most appropriate protective measures.

Lebanon Following the support plan, the psychosocial team decides on the next steps, involving the family members and the child in their own support plan. However, if the family's support is not sufficient to protect the child from harm, or if the guardians are not taking care of their children at all, the case is referred to the juvenile court.

Is there a way to avoid administrative and judicial interference with parental rights if the parents co-operate/voluntarily cooperate?

- Poland This depends on the circumstances of each individual case.
- Spain Yes, if deemed appropriate by the protection authority. If protection measures have been taken, a support plan is developed with the aim of reintegrating the child into their family or, if this is not possible, establishing a stable protection measure.
- Lebanon If they cooperate voluntarily and the child is not at high risk of maltreatment/abuse or violence, then we continue to work with the family.

If parents co-operate, what support services are offered?

- Poland A family helper can be appointed by the social services to support the family's situation.
A guardian ad litem can also be appointed by the court to oversee the exercise of parental rights.
The parents can be obliged to start therapy.
- Spain If the parents are cooperative and willing to eliminate the factors that led to the children being placed at risk, this will be taken into account when child protection measures are put in place and when visiting rights are arranged in the event that the parents' guardianship is withdrawn. The local social welfare authority offers them a family intervention plan tailored to the individual case, which has a social, educational and therapeutic character. In addition, they receive economic and material assistance in the form of further education, leisure benefits, etc.
- Lebanon Special psychological and social support, parental counselling and, if necessary, medical and paramedical services; e.g. psychiatric, psychomotor, etc.
If necessary, support can be provided in the areas of health and finances.

Are criminal proceedings automatically initiated if the child's welfare is at risk? If so, by whom?

- Poland Only if it meets the criteria of a criminal offence, e.g. in the case of an abuse offence.
- Spain In the event of endangerment, the child protection authority can automatically assume guardianship of the children and inform the court of this later. If the parents have committed a criminal offence, the Youth Welfare Office will take action - either on its own behalf or on behalf of the child protection authority.
- Lebanon Yes, by the Attorney General if the danger is imminent.

What measures are generally taken when parental rights are interfered with (in court decisions)?

- Poland The obligation to undergo therapy; supervision of the exercise of parental rights by the guardian ad litem; removal of the child from the family.
- Spain The most appropriate child protection measures are taken in the best interests of the child.
- Lebanon If the juvenile court has decided to remove the child from the family because the child's welfare is jeopardised by the parents, the court decides on the possibility of contact between the parent(s) and the child that is in the child's best interests after examining the parents.

Case B:

A child is taken into care in Germany because the child's parents are at risk. The parents come from your country (Poland, Spain or Lebanon).

The youth welfare office would now like to clarify whether the grandparents, who have agreed to take the child into their care, are suitable and in a position to guarantee the care and support of the child.

Which authority is responsible for checking the grandparents?

- Poland The court guardian.
- Spain The local social services and the Autonomous Community of the grandparents' place of residence.
- Lebanon Any child protection agency specialising in reviews and cross-border child protection, such as Himaya.

On whose behalf does the review take place? The Youth Welfare Office, the court, the Central Authority, ISS?

- Poland ISS or the Central Authority can ask the local social welfare authority to carry out the review.
Once the court is involved in the proceedings, a review can also be commissioned by the court.
- Spain On behalf of the youth welfare office, via the central authority or - as in the case mentioned - via ISS.
- Lebanon ISS or the court through ISS.

What exactly are the contents of the review (aspects for assessing whether the child can live with the grandparents, e.g. financial situation, educational assessment, health suitability; attachment tolerance towards the biological parents, etc.)?

- Poland The financial and health situation; the existence of possible entries in social/adolescent authorities in the past; criminal records; general living conditions.
- Spain The same as those included in the question.
- Lebanon The child's relationship with the grandparents, the grandparents' motivation and capacities (health, mental health, language, etc.), financial situation, access to educational/school facilities in their neighbourhood, the grandparents' ability to respond to the child's specific needs and development (physical, psychological, emotional), ability to adapt to the child's particular cultural background.

Could the grandparents continue to receive support in the future?

- Poland Yes, the social authorities are available for anyone who needs help.
- Spain Yes, grandparents are considered to be foster parents within the kinship; therefore, they receive the support and benefits established in the regulations of the Autonomous Community in their place of residence. However, these are very few and very different from those of a foster family.
- Lebanon Yes, *Himaya* generally provides psychological and social support for the child as well as for the carers (grandparents) in order to support and advise this new family structure.

II. Parental responsibility

What is the concept of parental responsibility? What rights and obligations do parents have?

- Poland The content of the German "custody law" also reflects the concept of parental responsibility in the Polish legal system.
One difference is that the paternity/maternity acknowledgement of both parents, if they are not married, must be signed before the registration office. If one parent does not consent, the parent can apply to the court to establish the maternity or paternity of the other parent. Once maternity or paternity has been established, parental responsibility is granted by law to both parents, unless the court finds that there is a permanent obstacle to the exercise of parental responsibility or that one parent is abusing parental responsibility or seriously neglecting their duties towards the child.
- Spain Parental responsibility includes the responsibility to always act in the best interests of the child, according to his or her personality and taking into account his or her physical and psychological integrity. Caring for the child, accompanying, feeding,

educating and providing a comprehensive education for the child. To represent and manage the child's property and to seek help from the authorities when necessary for the child.

- Lebanon A. In the Islamic religious community: joint rights and duties of both parents:
- a) Shiites: The mother of the child holds the hadana (the right of actual care/personal custody) until the son turns two or the girl turns seven. After that, the hadana is transferred to the father. The father has wilaya (guardianship/legal representation of the child) from birth.
 - b) Sunnis (since 2024): the mother holds the hadana until the child reaches the age of 13 (for both boys and girls), unless otherwise decided by the court based on the best interests of the child. From the age of 13, the child is considered old enough to express their own opinion on custody.
- B. In the Christian religious community: The law does not specify a particular age for the child to change custody, but the mother has the right to actually care for her child until it is two years old. The father has wila-ya as long as he does not forfeit his rights, otherwise they are transferred to the mother by court order.
- a) In the Orthodox religious community: From the age of two, the mother has parental responsibility until the child is 14 (for boys) or 15 (for girls) years old.
 - b) In the Druze religious community: Hadana of the mother until the age of 12 (for boys) or 14 (for girls). The father is not allowed to take the children away from the mother's home during this period. The father is the legal guardian from birth.

Who has parental responsibility for a child whose parents are not married?

- Poland If the parents are not married and no steps are taken, both parents have joint parental responsibility.
- Spain Both parents, provided there is an acknowledgement of paternity before the civil status authority, a public deed, a final judgement or a decision on the file.
- Lebanon This depends on the religion. In the Muslim community, as long as paternity is not denied, the father is awarded the wilaya and the mother the hadana (as with legitimate children). If the couple belong to two different religions, the parent who first registered the birth of the child has parental responsibility.
- If the child is not recognised by either parent, private international law applies.

Is parental responsibility automatically reorganised if the child's parents divorce or does joint custody remain in place?

- Poland As a rule, the court makes a decision on parental responsibility. There are three options: (a) joint custody; (b) transferring the exercise of parental responsibility to one of the parents, while at the same time limiting the parental responsibility of the other parent to certain rights and duties in relation to the person of the child, if this is in the best interests of the child; and (c) the parental responsibility of one parent (or even both parents) may be limited (i.e. the court may make appropriate orders and impose obligations on the parents) or even withdrawn. Joint custody (a) applies automatically from birth; a written agreement between the parents is no longer required. The most common decision is the first (a).
- Spain This must be regulated automatically - either by an agreement between the parents, which is confirmed by the court, or - in the event of a custody conflict between the parties - it is up to the court to regulate custody rights in the best interests of the child.
- Lebanon This depends on the individual case and the willingness of both parents, as well as the religious laws. Further information on religious regulations can be obtained from the International Social Service of the German Association for Public and Private Welfare, among others.

What rights does the parent with whom the child lives and who has parental responsibility have?

- Poland The parent with whom the child lives can decide on all matters relating to the child's daily life and in the event of imminent danger. For all important decisions in the child's life, including a change of residence, there should be agreement between the parents.
- Spain The parent with whom the child lives can decide on all matters relating to the child's daily life and in the event of imminent danger. For all important decisions in the child's life, including a change of residence, there should be agreement between the parents.
- Lebanon The child's legal guardian assumes responsibility. In the event of disagreement, mediation is offered by the juvenile court.

What rights does the parent who does not have parental responsibility for the child have? (And in which matters can they have a say)?

- Poland In Poland, the fact that a parent does not have parental responsibility generally only arises through the withdrawal of parental responsibility by the court if the child's welfare has been seriously jeopardised or impaired by the parent. The parent who does not have parental responsibility has the right to contact with the child if the child so wishes and if the custodial parent agrees or the court so decides. The non-custodial parent is obliged to contribute to the costs of the child's living expenses and upbringing, whereby the amount of the payments is determined by the court. This parent generally has no other rights or obligations.
- Spain The parent who does not exercise parental responsibility has the right to personal contact with their children, unless otherwise determined by court order or by a state organisation. He/she has the right to be informed about important matters in the child's life; however, he/she does not have the right to participate in decisions regarding the child's life.
- Lebanon The parent who does not have parental responsibility/legal guardianship has the right to have contact with the child. The details are regulated by the court. If the parent or legal guardian jeopardises the child's well-being or exposes the child to the risk of abuse, the non-custodial parent raises an objection and the court assesses and, if necessary, transfers custody of the child to a trusted adult or to him/herself according to the rules of the child's religion.

III. Contact

After a separation, the mother of the child moves back to her home country with the child. The child's father, who remains in Germany, agrees to the move. Visits between father and child are arranged. Some time after the move, the visits no longer work and the parents are unable to reach an agreement.

If the child is in your country, who can the child's father turn to locally for support?

- Poland If the father wants a legally binding document, he should contact a mediation centre or the court.
- Spain The father of the child can receive support from our service through ISS (e.g. a review of the situation, including the best interests of the child by the social welfare authorities). Mediation is offered to enable contact between father and child.
- Lebanon The person can contact Himaya for mediation, e.g. via the ITS.
If the marriage is registered in Lebanon, two legal scenarios are conceivable:
1) For religiously registered marriages, the person can address their request to the special religious court through a lawyer. 2) For civil registered marriages, the lawyer

would have to address the request to the "personal status court" and the court will decide according to the law of the country where the marriage was registered. FOR EXAMPLE: If the marriage is registered in Germany, then German law would apply to the family. The father can hire a lawyer to pursue his case in Lebanon. Lebanese courts attach great importance to the presence of the foreign parent at the court hearing together with his or her lawyer.

What support options are there for the father?

- Poland Mediation, a meeting with the child's mother to request a review of the child's welfare by the local social services.
The father of the child can seek legal advice.
- Spain Mediation.
- Lebanon Himaya would:
1. Support the father with counselling and referral to the competent court if he travels to Lebanon to find out about the children's situation.
 2. Offer mediation in the best interests of the child.

What would the respective institution do in the specific case?

- Poland In Poland, the social authorities do not feel responsible for contact issues. However, the social authorities do offer free legal counselling. The social authorities also provide information about the services offered by NGOs.
- Spain The social welfare authority in your place of residence contacts the mother of the child to arrange a meeting and clarify the psychosocial situation of the mother and the child. The family mediation service can be commissioned via the family support services of the local authority of their municipality of residence; or via the family courts, if legal proceedings have begun in which it is being examined whether it would be advisable to resolve the family conflict through agreement and dialogue between the parties.
- Lebanon If the child's mother's contact details are available, Himaya would contact her by phone and ask for a meeting at our office. The team (a social worker and a psychologist) will then develop a plan to assess the child's well-being and draw up an action plan (psychosocial support for the children, mediation and counselling/support for the parents, etc.).

Is there the possibility of protected/accompanied contact? Is this ordered or is it a voluntary offer?

- Poland Only if it is ordered by the court. However, there are NGOs that offer this service even without a court order.
- Spain There are family contact centres in Spain. This is a specialised social resource that aims to guarantee the child's right to remain in contact with their parents and/or relatives when they are not living with them, either due to the separation of the parents or the separation of the child from both parents through the application of protection measures. These contact points are exceptional in nature and can only be utilised if it is not possible to protect the interests of the children in any other way.
Contact with the children takes place at these contact centres and is supervised by specialists. Contact can take place at the request of the parents or by court order.
- Lebanon Protected, supervised contact is ordered by the court or at the request of the parents.

Who pays for this measure?

- Poland The parents - if the court-appointed guardian organises the supervised contact. If the court has ordered that the visitation be carried out by another professional (e.g. a psychologist) in the NGO's office (usually in special premises), it may be free of charge

(usually in situations where the NGO has been given a grant/financial support to provide these services).

Spain The state organisation.

Lebanon In Lebanon, parents generally have to bear the costs of this measure personally.

Is it possible to have accompanied contact at weekends and during public holidays?

Poland If the contact is supervised by the court guardian: yes, the meetings can also take place at weekends and on public holidays. If the contact meetings are accompanied by professionals from NGOs (e.g. TKOPD in Poznan), they can also take place on Saturdays, but not on Sundays or public holidays.

Spain Yes, this possibility exists.

Lebanon This accompanied contact can be offered by Himaya during working hours, but would be subject to a fee.

Appendix

1. Typical Actors

The Federal Office of Justice as the Central Authority in Germany

According to the Hague Conventions, the Brussels IIb Regulation and the European Convention on Custody of Children of 1980 ("Custody Convention"), all contracting states must establish a "Central Authority". In Germany, the tasks of the Central Authority are carried out by the "International Custody, Child Abduction, Child and Adult Protection Matters" Division of the Federal Office of Justice in accordance with Section 3 of the International Family Proceedings Act (IntFamRVG). Pursuant to Section 6 para. 1 IntFamRVG, the Federal Office of Justice takes all necessary measures to fulfil its duties with the help of the competent authorities, whereby it corresponds directly with all competent authorities in Germany and abroad.

The Federal Office of Justice is the contact and coordination centre for incoming requests from other countries and for outgoing requests to other countries. Requests that fall within the scope of the Brussels II b Regulation must be submitted via the central authorities. While the involvement of the central authorities was still optional under the Brussels IIa Regulation, this is now mandatory (Art. 78 para. 3 Brussels IIb Regulation). The work of the Federal Office of Justice is always free of charge.

In general, a distinction can be made between incoming and outgoing requests.

In the case of outgoing requests to other countries under the 1980 Child Abduction Convention, the Federal Office of Justice forwards applications for the return of children to Germany to the foreign Central Authorities and supports the applicants in the further proceedings.

In the case of incoming requests from other countries under the 1980 Child Abduction Convention, the Federal Office of Justice is deemed by law to be authorised to act on behalf of the applicant in court or out of court, either itself or by way of sub-authorisation through representatives, for the purpose of returning the child under the 1980 Child Abduction Convention. In addition, cross-border enforcement of rights of access can be supported within the framework of the Convention (see Art. 21).

In addition, the Federal Office of Justice also has tasks in connection with the cross-border collection of reports on the social situation of a child in accordance with Art. 80 of the Brussels IIb Regulation and Art. 32 of the 1996 Child Protection Convention, as well as the cross-border placement of a child in a home or foster family in accordance with Art. 82 of the Brussels IIb Regulation and Art. 33 of the 1996 Child Protection Convention.⁵⁶

The Federal Office of Justice cooperates closely with the central authorities of the other Member States and exchanges information at this level. It continuously participates in a large number of working groups, training courses, projects, events and meetings in Germany and abroad.

⁵⁶ Statistics available at https://www.bundesjustizamt.de/DE/Themen/Familieinternational/Sorgerecht/Statistik/Statistik_node.html (last accessed: 24 September 2025).

Twice a year, it also prepares the technical and organisational aspects of a judges' conference, which is aimed at judges with special responsibility for international family law proceedings in accordance with Sections 10-13 and 47 IntFamRVG.

The Federal Office of Justice ensures that the proceedings are processed quickly, in particular to fulfil the acceleration requirement of the 1996 Child Protection Convention. The assignment of individual cases to the caseworkers is generally carried out, even outside of the 1996 Child Protection Convention, via an allocation by federal state. This country responsibility has the advantage of greater specialisation with regard to the respective legal system of the other state. In addition, the person handling the case is also better known to the other Central Authority, which promotes rapid communication. The majority of communication takes place in English.

Further information can be found on the website of the Federal Office of Justice (see appendix).

The International Social Service in the German Association for Public and Private Welfare – ISD (Deutscher Verein für öffentliche und private Fürsorge e.V.)

The International Social Service of the German Association for Public and Private Welfare is not an authority, but a non-governmental organisation. ISS Germany – ISD therefore has no authority or "guardian function". It is politically and ideologically neutral.

ISS Germany – ISD is financially supported by the federal government in order to support child and youth welfare professionals in the field of cross-border social work.⁵⁷ With its counselling services, it acts as a guide and advisor through complex case constellations.

Since 15 November 2011, the International Social Service of the German Association has also been the sole sponsor of a Central Contact Point for Cross-Border Family Conflicts and Mediation (ZAnK) on behalf of the Federal Government.⁵⁸ The core of this mandate is to advise professionals and those affected themselves on issues ranging from cross-border family conflicts to child abduction.

ISS Germany – ISD is a liaison office between domestic and foreign specialised social services, family and guardianship courts.⁵⁹ It works within the network of the global association International Social Service (ISS) with foreign branches and correspondents in the following areas of cross-border social work:

- Questions of parental custody and contact,
- child abduction,
- endangerment of the child's welfare,
- placement and guardianship,
- migration-specific issues.

57 The Hague Conference also points out that central authorities can fall back on experienced organisations in the area of cooperation. ISS is explicitly named here as such an organisation, see Lagarde Report on the CSC, para. 140: https://www.bundesjustizamt.de/SharedDocs/Down-loads/DE/HKUE/ksue_ert_bericht_paul_lagarde.pdf?blob=publicationFile&v=1 (last accessed: 24 September 2025).

58 In the so-called Malta Principles, the Hague Conference describes the range of tasks of a central contact point for mediation and sets out criteria that mediators should fulfil, see <https://www.hcch.net/en/publications-and-studies/details4/?pid=5317&dtid=52> (last accessed: 24 September 2025).

59 Within the scope of the Brussels IIb Regulation, however, requests to obtain social reports and child protection notifications must be forwarded abroad via the Federal Office of Justice as the central authority. The ITS can only provide advice in advance.

Its network consists of authorities as well as non-governmental organisations. The employees generally involve the locally responsible specialist centres in the country for further processing.

Cooperation in international cases does not take place by way of administrative assistance, but on a voluntary basis. Youth welfare offices are not obliged to contact ISS Germany – ISD in cases with an international dimension. However, thanks to the existing contacts and translation possibilities, consultation will in most cases help to orientate oneself in foreign systems and to have the right contact persons at one's side.

Authorities and courts are often dependent on information from abroad - especially social reports - in order to make decisions regarding the child's welfare from a distance. By cooperating with the network, ISS Germany – ISD can help to ensure that these reports are compiled by local professional partners. In addition to case work and telephone counselling, ISS Germany – ISD also carries out policy work such as statements on draft legislation and publications as well as training for professionals in the relevant subject areas.

Telephone counselling is free of charge. ISS Germany – ISD charges a fee for its work in cross-border cases, which is invoiced to the youth welfare offices or the courts. Depending on the country, there may be additional costs for processing individual cases. Child protection reports abroad are generally free of charge. The working languages within the network are English, Spanish and French.

Embassies and Consulates General

Particularly in cases of child abduction in non-Hague Convention countries, it may be advisable for affected parents to contact the German diplomatic mission in the respective country. The contact details can be found on the website of the Federal Foreign Office (see appendix).

The diplomatic missions abroad only have limited options at their disposal to support affected mothers and fathers, in particular no means of coercion. In their activities, they must take into account the legal system of the respective receiving state, which means that the possibilities for support can vary from country to country. In addition, the deprived child often has the nationality of the host country as well as the German nationality and is therefore regarded by the authorities there exclusively as their own national. In these cases, consular assistance is particularly difficult.

In the past, however, German diplomatic missions abroad have been able to provide support in child abduction cases, for example by providing

- Legal advice (but not individual case counselling) on the main features of custody law and the course of legal proceedings in the host country, e.g. with regard to jurisdiction, enforcement and the granting of counselling and legal aid,
- Support in the search for suitable local lawyers,
- Establishing contact with judicial and police authorities and, if necessary, youth welfare offices,
- Naming/referral to counselling centres in the district (e.g. family counselling, church institutions, legal advice, mediation, child protection facilities, women's refuges),

- Assistance for the return of the child in accordance with Section 5 of the Consular Act in case of need,
- Issue of identity documents for the child,
- Passport-restricting measures against the depriving parent if the latter is a German citizen,
- Assistance in determining the child's whereabouts,
- Attempts to mediate between the parents/families as far as possible, with the aim of returning the child or making appropriate contact arrangements.

The diplomatic missions abroad do not charge any fees for these activities.

The European Judicial Network

Europe is growing ever closer together; nevertheless, there are a large number of different national legal systems, as well as numerous European regulations and directives. For the courts dealing with cross-border cases, this results in an increased need for information. The European Judicial Network in Civil and Commercial Matters (EJN) can provide assistance in this regard. The EJN is not an authority, but a network of people in every Member State except Denmark. Any problems that arise are solved through personal contacts.

The EJN is available to the courts and judicial administrations as a service organisation. There is no provision for third parties (youth welfare offices, counselling centres, private individuals) to contact the EJN. In particular, the EJN provides support in individual cases pending before civil courts that require judicial co-operation with another Member State. The aim is to ensure the smooth handling of judicial proceedings with cross-border implications within the EU. The assistance provided ranges from support in the formulation and execution of requests for legal assistance to obtaining information on the content of foreign law.

It is important to note that the involvement of the EJN does not replace the traditional, formal mutual legal assistance procedure between the Member States, for example via the European Evidence Regulation. It is merely supplemented by the possibility of a swift and informal procedure, particularly in the event of difficulties arising in the execution of requests. However, the contact points provide advice when problems arise and can resolve them informally.

The network includes the contact points, central offices and central authorities under various EU instruments as well as the so-called EJN family court judges. The contact points play a key role in the EJN due to their direct links to the members of the network and the courts and judicial authorities in their member state. There are a total of 17 contact points in Germany: the federal contact point and 16 regional contact points.

As part of their support work, the contact points liaise with the relevant contact point in the Member State concerned, which in turn contacts the relevant court or competent body in the Member State. The activities of the contact points are carried out directly, quickly and informally by e-mail or telephone. As a rule, the simpler the question, the quicker you will receive an answer. In family law proceedings, the courts can also turn to the German EJN family court judges, who are characterised in particular by their many years of experience in cross-border family law disputes. Two of these judges are also liaison judges in the International Hague Judges Network and provide support in child abduction cases worldwide within the framework of the 1980 Hague Child Abduction Convention.

Another important aim of the EJN is to provide those involved in cross-border litigation

with information about the different national legal systems as well as the legal acts of the European Union and other international organisations such as the Hague Conference. For this purpose, the European e-Justice Portal has been set up on the Internet, which can be accessed at: <https://e-justice.europa.eu>. Particularly useful is the so-called European Judicial Atlas for civil matters, which can be used to find the competent courts in the Member States. The European e-Justice Portal also contains numerous forms on European civil procedural law.

Further information on the EJN, its members and contact details can be found on the website of the Federal Office of Justice (see 2.).

2. Relevant institutions

Federal Foreign Office

- Unit 507 -
Werderscher Markt 1
10117 Berlin
Tel. no.: (030) 5000-0
Fax no.: (030) 1817 3402
E-mail: 507-S@diplo.de or poststelle@auswaertiges-amt.de
www.auswaertiges-amt.de, www.konsularinfo.diplo.de

Federal Office of Justice

- Central Authority -
53094 Bonn
Phone no.: (0228) 99 410-5212
Fax no.: (0228) 99 410-5401
E-mail: int.sorgerecht@bfj.bund.de
www.bundesjustizamt.de

Bundeskonzferenz für Erziehungsberatung e.V. Professional

Association for Educational and Family Counselling
Herrnstraße 53
90763 Fürth
E-Mail: bke@bke.de
Phone no.: (0911) 9 77 14-0
Fax no.: (0911) 74 54 97

Federal Ministry of Justice and Consumer Protection

- Division I A 6 -
11015 Berlin
Tel. no.: (030) 18580-0
Fax no.: (030) 18580-9525
E-mail: poststelle@bmjv.bund.de
www.bmjv.de

Federal Police Headquarters

- Department 32 -
Heinrich-Mann-Allee 103
House 44
14473 Potsdam
Phone no.: (0331) 97 997-0/-3232 (service number)
Fax no.: (0331) 97 997-1010
E-mail: bpolp.referat.32@polizei.bund.de
www.bundespolizei.de

European Judicial Network

The Federal Contact Point can be contacted directly by judges who are involved in a

cross-border legal dispute at

Federal Office of Justice

Federal Contact Point in the European Judicial Network for Civil and Commercial Matters

53094 Bonn

E-Mail: euro.judnet@bfj.bund.de

Fax: + 49 228 99 410-5919. www.bundesjustizamt.de/ejnzivil

International Mediation Centre for Family Conflicts and Child Abduction

- MIKK e.V. -

Fasanenstr. 12

10623 Berlin

Phone: (030) 74 78 78 79

Email: info@mikk-ev.de

www.mikk-ev.de

Papatya

Anonymous crisis centre for girls and young women with a migration background
info@papatya.org; beratung@papatya.org
www.papatya.org

Association of Binational Families and Partnerships, iaf e.V.

- Federal Office -

Ludolfusstraße 2-4

60487 Frankfurt am Main

Phone no.: (069) 713 756-0

Fax no.: (069) 713 756 29

Email: info@verband-binationaler.de

www.verband-binationaler.de

White Ring

- Federal office -

Weberstraße 16

55130 Mainz

Phone no.: (06131) 830 3-0

Fax no.: (06131) 830 3-45

E-mail: info@weisser-ring.de www.weisserring.de

German Association for Public and Private Welfare -

International Social Service

Michaelkirchstr. 17/18

10179 Berlin-Mitte

Phone no.: (030) 62980-403

Fax no.: (030) 62980-450

E-mail: isd@issger.de

www.issger.de and www.zank.de

Specialised lawyers can be found via the local bar associations. Not only are the specialised lawyers for family law registered there, but also special fields of interest.

Cultural mediators, in particular, are available here:

Local advice centres for foreign families/non-Germans such as those of the German Caritas Association, the Workers' Welfare Association or Diakonie Deutschland for immigrants of certain nationalities.

Local integration officers can help with the search and selection.

Further contacts:

- Federal Association for Minors and Refugees: www.b-umf.de
- Federal Office of Administration - Information Centre for Emigrants and Foreigners, where people can be referred if they wish to obtain basic information about the country in question: www.bundesverwaltungsamt.de
- Committee for Missing Children, European branch in Germany, many links to other offices of the network abroad: www.Kinder-nach-hause.de
- Parents' Initiative for Missing Children: www.vermisste-kinder.de

International:

- Hague Conference on Private International Law: Contracting States, Convention texts, Central Authorities, etc.: www.hcch.net
- Database with a collection of judgements on the Hague Convention: www.incadat.com
- European Justice Portal (e.g. family law, European Judicial Network, European Judicial Atlas): www.e-justice.europa.eu/home_de
- International Academy of Family Lawyers (IAFL): www.iafl.com/
- National Center for Missing and Exploited Children (USA): Very informative, literature etc., also files to download: www.missingkids.com
- "Reunite": Central British organisation on all topics related to international child abduction (Great Britain), especially on prevention: www.reunite.org

Deutscher Verein für öffentliche und private Fürsorge e.V. (German Association for Public and Private Welfare) - the forum for social welfare for over 140 years

The German Association for Public and Private Welfare (Deutscher Verein für öffentliche und private Fürsorge e. V.) is the joint forum of local authorities and welfare organisations and their institutions, the federal states, private social services and academia for all areas of social work, social policy and social law. With its expertise and experience, it accompanies and shapes developments in areas such as child, youth and family policy, social and elderly care, basic security systems, care and rehabilitation as well as migration and integration.

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Dr. Verena Staats, Director

Michaelkirchstr. 17/18

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www.deutscher-verein.de

E-mail info@deutscher-verein.de

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