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Cross-border placement of a child including foster family

Франция

**1 Is there an obligation under your national law for prior consultation and the obtaining of consent before the cross-border placement of a child? Please mention possible exceptions.**

Procedures exist for the prior consultation and the obtaining of consent before the cross-border placement of a child in France under Article 56 of Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, known as the 'Brussels IIa' (*Bruxelles II Bis*) Regulation. The implementation of these procedures are outlined in the Ministry of Justice Circular of 28 October 2005 on the entry into force of the Regulation (Circular No CIV/03/05; No NOR JUS C 05 20 191 C).

Apart from the case of placement with a parent, there is no exception to these procedures, since French law requires the intervention of a public authority, whether the placement is decided in an administrative framework, with the consent of its legal officers, or in a judicial context.

**2 If prior consultation and consent are required, which authority is to be consulted and to give the consent?**

The Office for Legislation and Legal Affairs (Office K1) of the Youth Protection Directorate (*Direction de la Protection Judiciaire de la Jeunesse*, DPJJ) has been designated by France as the central authority in this domain. It therefore needs to be consulted within the context of the consultation and consent procedures, as soon as the placement of a child is contemplated in France from another Member State party to the Regulation.

The dossier may be sent:

- by email: [pole-international.dpjj-k1@justice.gouv.fr](mailto:pole-international.dpjj-k1@justice.gouv.fr)
- by post, to the following address:

Ministère de la Justice

Direction de la Protection Judiciaire de la Jeunesse (bureau K1 – pôle international)

13 place Vendôme 75001 Paris, France

**3 Please describe shortly the procedure for consultation and the obtaining of consent (including required documents, deadlines, modalities of the procedure, and other relevant details).**

In the case of a planned placement in France by another Member State party to the Brussels IIa Regulation, the central authority of the requesting Member State is required to submit the following to the French central authority:

- information concerning the civil status of the minor;
- the identity and contact details of the persons with parental authority over the minor;
- information concerning the identity of the persons designated to foster the child or information on the proposed childcare institution;
- an overview of the minor's individual and family situation (including the full background and recent events);
- the steps taken by the requesting authority to prepare the placement;
- the arrangements for the proposed placement (duration, and organisation of rights to correspondence, outings, visits and accommodation);
- the arrangements for financing the proposed placement;
- the arrangements for organising the follow-up of the placement and handling potential incidents;
- the duration of the requested placement.

Upon receipt of these documents, the French central authority will carry out all the necessary checks by liaising with the appropriate Departmental Council. The response time may vary depending on the complexity of the case.

With regard to time limits:

These documents must be provided before the child is placed in France, in accordance with the provisions of the Regulation. In any case, documents should be provided as far in advance as possible of the proposed placement date to avoid delaying the actual placement date.

As regards renewal applications for ongoing placements, these must be sent to the French central authority at least two months before the end of the placement.

**4 What is a "foster family" according to the national law of your Member State?**

French law defines foster family as 'the person who, in exchange for payment, regularly and without interruption takes minors and young adults under the age of twenty-one into their home' and 'all persons residing at that address' (Article L. 421-2 of the Social Action and Family Code, *Code de l'action sociale et des familles*). Official approval from the Departmental Council is required in order to be designated a 'foster family'.

However, French law also recognises the concept of a 'trustworthy third party'; this is a person to whom the child is entrusted, who is not part of the family and who receives an allowance corresponding to the cost of providing for the child.

Finally, fostering by a family member following a placement being approved in an administrative or judicial context is also provided for by law. These two arrangements are referred to in Article 375-3 (2) of the Civil Code.

In the context of the implementation of the Brussels IIa Regulation, all these scenarios fall under the same regime and require prior consultation of and consent of the French central authority.

**5 Does the notion of "foster family" encompass relatives or not? If yes, which ones?**

The broad interpretation favoured in the context of the application of the Brussels IIa Regulation includes members of the minor's family in the concept of 'foster family'. Consequently, placements ordered with family members, other than the minor's parents, require prior consultation with the French central authority.

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