

Home>Family matters & inheritance>Cross-border placement of a child including foster family

In the field of civil justice, pending procedures and proceedings initiated before the end of the transition period will continue under EU law. The e-Justice Portal, on the basis of a mutual agreement with the UK, will maintain the relevant information related to the United Kingdom until the end of 2022.

Cross-border placement of a child including foster family

Gibraltar

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.

Part VIIIA of the Children Act 2009 transposes the specific procedures and obligations ratified by The Hague Convention 1996. The Convention of course provides for co-operation between States in relation to cases in which children are being placed in alternative care across frontiers, for example under fostering or other long-term arrangements falling short of adoption.

In particular, Section 93M of the Children Act 2009 requires the provision of a report to the Central Authority of another Contracting State if the Care Agency is contemplating placing a child in another Contracting State (within the meaning of Article 33 of the Convention) or to consult (in accordance with Article 56 of Brussels IIa)

The issue of consent, referrals and procedures to follow very much depends on the circumstances and present status of the child. For example, if the intended placement relates to a child already under a Care Order of the Supreme Court, then proceedings would need to be brought in the Supreme Court pursuant to Chapter IV of the Convention for recognition or enforcement of an order.

Additionally, Section 67 of the Children Act provides that no person may remove a child from Gibraltar under a Care Order without the written consent of every person who has parental responsibility for the child (or alternatively) the permission of the Supreme Court.

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

Please see above.

Section 93K of the Care Act 2009 states that the functions under the Convention of a Central Authority shall be discharged in Gibraltar in the first instance by the Minister for Justice.

For the purpose of Articles 24, 26 and 28 of the Convention, reference to the Authority includes the Supreme Court of Gibraltar.

For the purpose of Article 35.2 the references to the Authority includes the Care Agency.

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).

We follow the procedures prescribed by The Hague Conventions and the Rules of Court [Family Proceedings \(Children\) \(1996 Hague Convention\) Rules 2011](#) in respect of court applications.

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

There is no definition in the Children Act 2009 for a foster family. Definitions for Foster carer and Fostering are included.

"Foster carer" means a person approved by the Care Agency for the purposes of fostering.

"Fostering" means looking after a child in need of care by a person who is not a parent, adoptive parent or relative or a person who otherwise has parental responsibility in respect of the child.

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

We do not refer to foster family when it involves relatives or friends looking after them, this is known as a family/ friend's placement, these are referred to as connected person's placement.

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