

Cross-border family mediation - France



Cross-border family mediation is promoted by international and European cooperation agreements, in order to encourage calm and rapid resolution of disputes. France has established a unit within its central administration intended to encourage the use of mediation in cross-border cases. National legislation as regards mediation is also relevant as it may apply to cross-border cases.

National regulatory framework

Law No 95-125 of 8 February 1995, followed by decree No 2012-66 of 22 July 1996, was the foundation for legal mediation in France. Any judge taking a case, may, with the agreement of the parties, appoint a qualified, impartial and independent third party mediator.

Order (*ordonnance*) No 2011-1540 of 16 November 2011, which transposed Directive 2008/52/EC of 21 May 2008, amended the law of 8 February 1995. This law defines mediation as any structured process by which two or more parties try to reach an agreement, with a view to the amicable resolution of their disagreements with the assistance of a third party. It established common arrangements for all forms of mediation.

For family mediation, there is a national qualification created by the decree of 2 December 2003 ([articles R.451-66 et suivants du Code de l'Action Sociale et des Familles](#)) and the decrees of 12 February 2004 and 19 March 2012. However, at the present time, this qualification is not essential for work as a family mediator because family mediation is not a regulated profession.

Mediators work either in the voluntary sector, or under the regulatory framework for the liberal professions.

Family mediation can intervene:

- 1) before legal intervention: this is known as family mediation by agreement: the case is directly submitted to the mediator by the parties;
- 2) during the legal proceedings: Article 1071 of the Code of Civil Procedure, Article 255 and Article 373-2-10 of the Civil Code;
 - the family affairs judge (*juge aux affaires familiales*) can propose mediation to the parties and after having obtained their agreement, appoint a family mediator to proceed;
 - the family affairs judge can order the parties to meet a family mediator who will inform them about the purpose of and the procedure for family mediation.

An agreement obtained from family mediation may be the subject of approval by the family affairs judge (Articles 1534 and 1565 and following of the Code of Civil Procedure). The judge will approve the agreement except if he/she finds that it does not sufficiently safeguard the interests of a child, or that the parents' consent has not been given freely (Article 373-2-7, subparagraph 2, of the Civil Code) or more generally that it could be contrary to public policy.

Costs: The first information interview with the family mediator is free for the user. However, family mediation requires a financial contribution from the parties according to an official scale applying to mediation services, based on the principle of a payment per session and per person, dependant on the income of the parties. When an individual benefits from legal aid, the state pays the fees for family mediation and the national scale provides for an increase in the remuneration of the lawyer whenever mediation has been ordered by the family affairs judge.

- Link to the relevant provisions of the Code of Civil Procedure: [here \(56 Kb\)](#)
- Link to the Ministry of Justice page [page d'information du Ministère de la justice](#) on family mediation
- Link to lists of mediators: to find the closest family mediation service to you, you can carry out a search: 'family mediation' under the 'categories' tab on the following website [Justice en région](#).

International family mediation

International family mediation is provided for in international cooperation agreements with regard to family issues (the Hague Convention of 25 October 1980 and the Brussels IIA Regulation), in order to facilitate amicable resolution with a view to the return of the child in the case of international abduction, or agreement on the exercise of a parent's access rights.

Those with an interest can:

1) Contact mediators who act as liberal professionals or within the voluntary sector: a list of mediators able to act in international family cases can be found online at the following address: <http://www.justice.gouv.fr/26139> (or click [here](#));

2) Have recourse to mediation through the dedicated unit within the central administration: France has an international family mediation unit within the Ministry of Justice ([CMFI](#)). In each new cross-border case, the unit offers to help by intervening in advance, during and/or after the legal proceedings, as a support measure. Agreements reached are submitted, where appropriate after approval by the parties' legal advisers, to the courts of the relevant countries.

When one parent makes a request for international family mediation to the central administration, the latter proposes such mediation to the other parent. The approach must be **voluntary: there must not be any constraint in the implementation of an international family mediation process.**

In its work on international family mediation, the dedicated unit within the central administration operates impartially and completely confidentially with each parent.

Mediation carried out by the international family mediation unit of the Ministry of Justice is free. The application, accompanied by documents related to the current or past court proceedings in France or abroad, must be sent to the following address:

Ministère de la Justice (Ministry of Justice)

Direction des Affaires Civiles et du Sceau – BDIP (Department of Civil Affairs)

Cellule de médiation familiale internationale (International Family Mediation Unit)

13 Place Vendôme

75 042 Paris Cedex 01

It can also be sent by e-mail: entraide-civile-internationale@justice.gouv.fr

Link to the French Ministry of Justice website (international family mediation unit): <http://www.justice.gouv.fr/justice-civile-11861/enlevement-parental-12063/la-mediation-21106.html>

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