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Cross-border placement of a child including foster family

A child may need a new family either because they are an orphan or because their parents appear unfit to care for them. Also, the term 'foster family' might be defined differently across EU countries.

Any type of placement of a child in a foster home with one or more individuals, or in institutional care – an orphanage or a children's home – in another EU country falls under the scope of the [Brussels IIa Regulation](#).

A court or authority planning to place a child with a foster family or in an institution in another EU country has to consult that country's authorities before ordering the placement. To establish what kind of consultation is necessary, the Regulation refers to national law:

If such a placement were to require the public authority of the State where the child is being placed to intervene if it were an internal case there, the *consent* of the receiving State's authorities would need to be obtained for a similar cross-border placement prior to ordering the placement.

If the public authority is not required to intervene in a similar domestic case in the State where the child is being placed, then its authorities only have to be informed of the placement.

Each EU country's national law and procedure defines the term 'foster family', particularly if it covers relatives.

Please select the relevant country's flag to obtain detailed national information.

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Cross-border placement of a child including foster family - Czech Republic

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.

In practice, the central authority must ascertain from the competent local child protection agency what opportunities exist for placing a child.

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

The central authority grants its approval after consulting with the competent local child protection agency. Approval is granted informally in the form of a written opinion from the central authority.

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).

The central authority contacts the competent local child protection agency (a municipal authority with extended powers), which in turn identifies whether and where a child could be placed (by establishing whether foster carers and institutions have spare capacity).

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

If neither parent is able to care for their child themselves, the court may place the child in the care of a legal guardian (where the parents have had their parental responsibility removed, their parental responsibility is limited or neither parent is alive) or a foster carer, or the child may be placed in the care of 'another person'. The foster carer and legal guardian are entitled to receive very specific social benefits. 'Another person' is not entitled to such benefits. The foster carer is obliged and authorised to care for the child personally. When raising the child, the foster carer exercises the rights and responsibilities of the parents in an appropriate manner. The foster carer is obliged and authorised to make decisions only concerning the child's day-to-day affairs, represent the child in those affairs and manage the child's assets. The foster carer must inform the child's parents of essential matters pertaining to the child. Where circumstances so require, the court establishes further rights and responsibilities of the foster carer.

If the child cannot be placed in any of the forms of care described above, the court may order that the child be placed in institutional care.

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

Yes, a considerable number of foster carers in the Czech Republic are related to the child. The degree of relatedness and other restrictions are not defined in any way in Czech fostering legislation.

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Cross-border placement of a child including foster family - Germany

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.

In principle, yes, the application from another EU Member State (with the exception of Denmark) for the consultation procedure must always precede placement of a minor in Germany.

Essentially, this requirement covers all forms of placement in Germany, i.e. also, in particular, placement in the care of relatives, provided that the placement is based on a measure of an authority or court in the sending Member State. In the case of a measure initiated by an authority or court in another EU Member State (with the exception of Denmark) it can therefore generally be assumed that prior consent will be necessary.

Whether, as an exception, prior consent can be dispensed with in special individual cases must be clarified with the competent state youth welfare office (*Landesjugendamt* – LJA) prior to placement.

New consent must be obtained in the event of any change to or extension of a placement measure.

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

The consent must be given by the youth welfare office responsible for the federal state in question within whose area placement is planned. Germany has 16 federal states and 17 youth welfare offices (one for each federal state, with two in the federal state of North Rhine-Westphalia; a list of addresses can be found at <http://www.bagljae.de/>). If no specific proposal has yet been made with regard to where the minor is to be placed, the German central authority

will determine the youth welfare office area with the closest connection. Alternatively, the federal state of Berlin is deemed to be competent (Section 45 of the Act to implement certain legal instruments in the field of international family law (*Gesetz zur Aus- und Durchführung bestimmter Rechtsinstrumente auf dem Gebiet des internationalen Familienrechts*) – International Family Law Act – IntFamRVG).

Federal state	Address	Telephone number, fax number, email address, website
Baden-Württemberg	Kommunalverband für Jugend und Soziales Baden-Württemberg Dezernat Jugend – Landesjugendamt Lindenspürstraße 39 70176 Stuttgart	Head: Reinhold Grüner Tel.: +49 (0)711 6375-0 Fax: +49 (0)711 6375-449 Email: reinhold.gruener@kvjs.de http://www.kvjs.de/
Bavaria	Zentrum Bayern Familie und Soziales Bayerisches Landesjugendamt Marsstraße 46 80335 Munich	Head: Hans Reinfelder Tel.: +49 (0)89 1261-04 Fax: +49 (0)89 1261-2412 Email: grenzueberschreitendeUnterbringung-blja@zbf.bayern.de http://www.blja.bayern.de/
Berlin	Senatsverwaltung für Bildung, Jugend und Wissenschaft Jugend und Familie, Landesjugendamt Bernhard-Weiß-Straße 6 10178 Berlin	Head: To be announced Regular representative within federal association (BAG): Dr Sabine Skutta Tel.: +49 (0)30 90227-5580 Fax: +49 (0)30 90227-5011 Email: sabine.skutta@senbjf.berlin.de http://www.berlin.de/sen/bjw
Brandenburg	Ministerium für Bildung, Jugend und Sport des Landes Brandenburg Abteilung Kinder, Jugend und Sport Heinrich-Mann-Allee 107 14473 Potsdam	Head: Volker-Gerd Westphal Tel.: +49 (0)331 866-0 Fax: +49 (0)331 866-3595 Email: http://www.mbj.s.brandenburg.de/
Bremen	Die Senatorin für Soziales, Jugend, Frauen, Integration und Sport Landesjugendamt Bahnhofplatz 29 28195 Bremen	Head: Christiane Schrader Tel.: +49 (0)421 361-0 Fax: +49 (0)421 496-4401 Email: christiane.schrader@soziales.bremen.de http://www.soziales.bremen.de/sixcms/detail.php?gsid=bremen02.c.740.de
Hamburg	Behörde für Arbeit, Soziales, Familie und Integration Amt für Familie Überregionale Förderung und Beratung/ Landesjugendamt FS 4 Adolph-Schönfelder-Straße 5 22083 Hamburg	Head: Dr Herbert Wiedermann Tel.: +49 (0)40 42863-2504 Fax: +49 (0)40 42796-1144 Email: herbert.wiedermann@basfi.hamburg.de http://www.hamburg.de/basfi/
Hessen	Hessisches Ministerium für Soziales und Integration Abteilung II6B – Jugendgremienarbeit Sonnenberger Straße 2/2a 65193 Wiesbaden	Head: Cornelia Lange Tel.: +49 (0)611 3219-3248 or -3249 Fax: +49 (0)611 817-3260 Email: cornelia.lange@hsm.hessen.de Regular representative within federal association (BAG): Susanne Rothenhöfer Tel.: +49 (0)611 3219-3433 Fax: +49 (0)611 32719-3433 Email: susanne.rothenhoefer@hsm.hessen.de http://www.sozialministerium.hessen.de/
Mecklenburg-Western Pomerania	Kommunaler Sozialverband Mecklenburg-Vorpommern Landesjugendamt Der Verbandsdirektor Am Grünen Tal 19 19063 Schwerin	Head: To be announced Contact: Nicole Kehrhahn-von Leesen Tel.: +49 (0)385 396899-11 Fax: +49 (0)385 396899-19 Email: Kehrhahn-vonLeesen@ksv-mv.de http://www.ksv-mv.de/jugendhilfe/aufgaben.html
	Niedersächsisches Landesamt für Soziales, Jugend und Familie	Head: Silke Niepel Tel.: +49 (0)511 89701-303

Lower Saxony	Außenstelle Hannover Fachgruppe Kinder, Jugend und Familie Schiffgraben 30-32 30175 Hannover	Fax: +49 (0)511 89701-330 Email: silke.niepel@ls.niedersachsen.de http://www.soziales.niedersachsen.de/
North Rhine- Westphalia (Rhineland)	Landschaftsverband Rheinland Dezernat Kinder, Jugend und Familie LVR-Landesjugendamt Kennedy-Ufer 2 50679 Cologne	Head: Lorenz Bahr Tel.: +49 (0)221 809-4002 Fax: +49 (0)221 809-4009 Email: LR4Buero@lvr.de http://www.lvr.de/
North Rhine- Westphalia (Westphalia- Lippe)	Landschaftsverband Westfalen-Lippe LWL-Dezernat Jugend und Schule Warendorfer Straße 25 48145 Münster	Head: Birgit Westers Tel.: +49 (0)251 591-01 Fax: +49 (0)251 591-275 Email: birgit.westers@lwl.org http://www.lwl.org/LWL/Jugend/Landesjugendamt/LJA/
Rhineland- Palatinate	Landesamt für Soziales, Jugend und Versorgung Rheinland-Pfalz Landesjugendamt Rheinallee 97-101 55118 Mainz	Head: Birgit Zeller Tel.: +49 (0)6131 967-289 Fax: +49 (0)6131 967-365 Email: zeller.birgit@lsjv.rlp.de http://www.lsjv.rlp.de/kinder-jugend-und-familie/
Saarland	Ministerium für Soziales, Gesundheit, Frauen und Familie C 5 – Kinder- und Jugendhilfe, Landesjugendamt Franz-Josef-Röder-Straße 23 66119 Saarbrücken	Head: Alexandra Heinen Tel.: +49 (0)681 501 – 2082 Email: a.heinen@soziales.saarland.de Regular representative within federal association (BAG): Annette Reichmann Tel.: +49 (0)681 501-2082 Fax: +49 (0)681 501-3416 Email: a.reichmann@soziales.saarland.de landesjugendamt@soziales.saarland.de http://www.landesjugendamt.saarland.de/
Saxony	Sächsisches Staatsministerium für Soziales und Verbraucherschutz Landesjugendamt Carolastraße 7a 09111 Chemnitz	Head: Peter Darmstadt Tel.: +49 (0)371 24081-101 Email: peter.darmstadt@lja.sms.sachsen.de http://www.lja.sms.sachsen.de/
Saxony-Anhalt	Landesverwaltungsamt Referat Jugend Landesjugendamt Ernst-Kamieth-Straße 2 06122 Halle (Saale)	Head: Antje Specht Representative within federal association (BAG): Corinna Rudloff Tel.: +49 (0)345 514-1625/1855 Fax: +49 (0)345 514-1012/1719 Email: antje.specht@lvwa.sachsen-anhalt.de ; Corinna.Rudloff@lvwa.sachsen-anhalt.de http://www.sachsen-anhalt.de/startseite/
Schleswig- Holstein	Ministerium für Soziales, Gesundheit, Jugend, Familie und Senioren des Landes Schleswig- Holstein Landesjugendamt Adolf-Westphal-Straße 4 24143 Kiel	Head: Thorsten Wilke Tel.: +49 (0)431 988-2405 Fax: +49 (0)431 988-2618 Email: thorsten.wilke@sozmi.landsh.de http://www.schleswig-holstein.de/MSGFG/DE/MSGFG_node.html
Thuringia	Thüringer Ministerium für Bildung, Jugend und Sport Abt. 4 – Kinder, Jugend, Sport und Landesjugendamt Werner-Seelenbinder-Str. 7 99096 Erfurt	Head: Martina Reinhardt Tel.: +49 (0)361 573411-300 Fax: +49 (0)361 573411-830 Email: martina.reinhardt@tmbjs.thueringen.de http://www.thueringen.de/

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).

The application for consent relating to placement of a minor from another EU Member State (with the exception of Denmark) is sent either directly to the competent German youth welfare office or via the central authority of the other EU Member State to the Federal Office of Justice (*Bundesamt für Justiz*) in Germany, which, in the latter case, then forwards the application to the competent German youth welfare office.

The German youth welfare office that has local competence should generally grant the request in accordance with Section 46(1) IntFamRVG if

1. carrying out the intended placement in Germany is in the best interests of the child, in particular because he or she has a particular connection to Germany,
2. the foreign authority has submitted a report and, if necessary, medical certificates or assessments setting out the reasons for the intended placement,
3. the child has been heard as part of the foreign proceedings, unless a hearing seemed inappropriate in view of the age or maturity of the child (as a rule, a hearing that is appropriate to the child's age and development and deals with the subject of placement in Germany is deemed to be necessary from the age of 3),
4. the appropriate institution or foster family has given its consent and there are no reasons not to proceed with placement,
5. any approval required in accordance with the law on aliens has been granted or promised, and
6. arrangements have been made regarding the assumption of costs (including sufficient health insurance).

The youth welfare office must have the intended granting of consent approved by the family court (*Familiengericht*) at the seat of the higher regional court (*Oberlandesgericht*) within whose jurisdiction the child is to be placed before notifying the requesting foreign authority of its consent (Section 47(1), first sentence, IntFamRVG).

After the approval has been granted or refused, the competent German youth welfare office informs the requesting foreign authority, the German central authority and the institution or foster family where the child is to be placed of the reasoned, final decision (Section 46(5) IntFamRVG).

The following information and evidence are required:

- name, address and telephone number of the competent foreign authority placing the child
- name, date of birth and nationality of the child
(copy of identity card or birth certificate)
- (intended) duration of placement
- reasons/professional basis for placement in general and placement in Germany in particular

(including any previous court decisions)

- information on the child's state of health

(if available: medical certificates/assessments)

- name, address and telephone number of the receiving foster institution/foster family in Germany
- agreement of the foster institution/foster family to placement of the child
- if available: determination of suitability for fostering/foster licence of the receiving foster family or operating licence of the receiving institution in accordance with German law
- contact details of the person(s) with custody
- evidence that the child has been heard as part of the foreign proceedings, unless a hearing seems inappropriate in view of the age or maturity of the child
- evidence of clarification of who will assume the costs
- evidence of the child's health/liability insurance

All information and evidence must be translated into German.

The right to request further information and/or documents in an individual case is reserved.

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

Within the meaning of Article 56 of the Brussels IIa Regulation, this term covers all placement outside institutions. This corresponds to Section 44(1), first sentence, of the Social Code (*Sozialgesetzbuch – SGB*) – Book Eight – Child and Youth Welfare (SGB VIII): 'Any person wishing to care for a child or young person on a full-time basis as part of his or her household.' This is a foster parent.

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

Yes. In principle, all family relationships are covered.

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Cross-border placement of a child including foster family - France

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.dpj-j1@justice.gouv.fr](mailto:pole-international.dpj-j1@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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Cross-border placement of a child including foster family - Croatia

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.

Before the cross-border placement of a child in the territory of the Republic of Croatia, in accordance with Article 56 of Council 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 (the 'Brussels IIa Regulation'), the Ministry of Demography, the Family, Youth and Social Policy, as the central authority for the Brussels IIa Regulation, must first be consulted and its consent obtained.

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

The Ministry of Demography, the Family, Youth and Social Policy, as the central authority of the Republic of Croatia for procedures under Council 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 (the 'Brussels IIa Regulation'), is responsible for the prior consultation procedure and for giving or refusing consent for the cross-border placement of a child.

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).

When a competent authority of another State is considering the cross-border placement of a child with an authorised social services provider (legal or natural person) in the territory of the Republic of Croatia, it must consult the central authority of the Republic of Croatia, namely the Ministry of Demography, the Family, Youth and Social Policy.

The competent authority of the requesting State may take a decision on the placement only if prior consent to the proposed placement has been granted by the Ministry, as the central authority of the requested State.

The request for prior consent to the cross-border placement of a child should contain:

- Comprehensive report on the child with the opinion and conclusion of the expert team on cross-border placement, including the reasons for the cross-border placement;
- Name of the services provider with which placement is sought, details of the planned start and end date of the cross-border placement and a declaration by the service provider agreeing to provide the service to the child and to bear all the child's travel (arrival and departure) and subsistence costs and expenses, including health insurance and education costs and any other costs relating to the child;
- Declaration by the requesting State guaranteeing that the representative of the service provider will be authorised to represent the child for the purpose of registering his or her temporary stay as well as to take any action necessary to protect the child in the territory of the Republic of Croatia;
- Court decisions issued in respect of the child, if any (e.g. decisions on parental custody of child, etc.);
- Description of the child's connection to Croatia, if any;
- Document showing that the child has exercised the right to express his or her opinion;
- General information on the competent authority of the requesting State that is to take the decision on the placement;
- Extract from the national legislation of the requesting State applicable to the measure;
- Other documentation, where appropriate (e.g. medical records).

The request and the supporting documents are to be submitted by the requesting State to the Ministry of Demography, the Family, Youth and Social Policy in the original language, accompanied by a translation into Croatian.

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

Article 9(2) and (3) of the Law on Foster Care (*Zakon o udomiteljstvu*) defines a foster parent as a representative of a foster family or single person providing a placement service, to whom the authorisation to provide foster care is issued and who is entered in the register of foster carers, and defines a foster family as a community formed by the foster parent, his or her spouse or unmarried spouse, children and other relatives living with the foster parent in the same household.

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

In accordance with Article 10 of the Law on Foster Care, foster care may be traditional foster care, foster care as a profession or kinship foster care.

Article 13 provides more details about who can perform kinship foster care, i.e. who is considered to be a relative that can provide this type of foster care, and it specifies the following: grandparents, uncles, aunts, brothers/half-brothers, sisters/half-sisters, grandchildren, and their spouses/unmarried spouses. By way of exception, foster care may be provided by relatives of the care recipient other than those listed if the care recipient's social services centre deems this to be in the best interests of the care recipient.

As already stated in the previous answer, a foster family is a community formed by the foster parent, his or her spouse or unmarried spouse, children and other relatives living with the foster parent in the same household, but there is no definition of which relatives are included in a foster family, and up to which degree of kinship. Rather, foster care is considered from the point of view of the foster parent and those with whom he or she lives in the same household, but it is tied to kinship.

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Cross-border placement of a child including foster family - Italy

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.

Italian legislation does not at present lay down any specific rules for the prior consultation procedure provided for in Article 56(1) of Regulation (EC) No 2201/2003. However, in accordance with general provisions, the placement of a child (i.e. placement with persons other than their parents) requires the involvement of the competent judicial authority.

When conducting an assessment of the placement of a child in Italy under Article 56 of the abovementioned Regulation, it is advisable to consult the central authority for Italy for necessary information or even assistance (Ministry of Justice, Department of Juvenile and Community Justice, Central Authority, via D. Chiesa 24, 00136 Rome; tel. +39 06 6818.8535; e-mail: autoritacentrali.dgmc@giustizia.it).

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

Placements require the involvement of the judicial authority; in the absence of specific rules, it is advisable to consult the central authority for Italy before making a placement. The absence of domestic rules governing cross-border placements makes it necessary for Italian courts to authorise such placements by analogy with the care system set out in Article 4(2) of Law No 184 of 1983. The involvement of the Italian courts is therefore necessary for the placement of a child in Italy.

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).

There are no specific national rules.

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

National law does not define the concept of 'foster family', which may be translated as '*famiglia affidataria*' in Italian law. However, the institution is governed by Law No 184 of 1983. This Law defines '*famiglia affidataria*' as a family (couples with or without children in common or single persons) responsible for the care of a child who has lost the assistance and protection of their natural parents.

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

Under national law (see. Article 2 of Law No 184 of 1983), any minor who is temporarily deprived of a suitable family environment may be entrusted to another family, possibly with other minors, or to a single person, or to a family-type community, with a view to safeguarding their welfare, education and learning. Where a suitable family placement is not possible, the child may be admitted to a public or private care institution, preferably within the child's region of residence. In the absence of any legislative definition, foster families are generally deemed to refer to persons other than the child's parents.

National law does not distinguish between relatives and non-relatives in this respect. However, when a child is removed from their family, the judge must first ascertain whether it is possible for the child to be placed with relatives. If it is not, non-relatives may be considered.

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Cross-border placement of a child including foster family - Latvia

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.

Before ordering a cross-border placement of a child, the competent family court (*bāriņtiesa*) having jurisdiction over the territory where the child is being placed must be consulted and its consent must be obtained.

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

A child placement plan must be notified to the Ministry of Justice of Latvia which will communicate with the competent family court regarding the issue of consent.

The consent of the competent family court is not required where, at the time of child's placement, the parents' custody of the child has not been revoked or custody granted to another person.

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).

The Ministry of Justice of Latvia is the central contact point handling the placement orders referred to in Article 56 of the Regulation and for forwarding them to a competent authority in Latvia which issues migration decisions.

List of required documents:

1. Information about the child's legal status and copies of all relevant court decisions, and a Latvian translation thereof;

2. Information about the reasons for the removal of the child from the family, and a Latvian translation thereof;
3. Copy of the child's birth certificate;
4. Information about the child's needs (health condition, education, emotional needs, and the languages which can be used to communicate with the child), and a Latvian translation thereof;
5. A school or preschool attendance certificate and medical records (medical examinations, vaccinations and diagnoses), and a Latvian translation thereof;
6. Information about the person or family the child is being placed with.

*Where a foreign authority has not named any particular individual in Latvia to place the child with, given the significance of ties to Latvia for the child, a family court will help to find a suitable guardian or foster family in Latvia.

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

In Latvia, children without parental care may be placed with a foster family or under guardianship.

A foster family is a family providing foster care to an orphan or a child deprived of parental care until the child is able to return to parental care where possible, or until the child is adopted or placed under guardianship.

A guardian assumes all the parental rights and responsibilities, and represents the child in personal and property matters.

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

A relative of the child, or a non-relative who is deemed by the family court as a person capable of performing the duties of a guardian, may be appointed guardian of the child.

Any relative willing to take care of the child may be appointed as guardian if he/she has the capacities and characteristics needed to perform the tasks of guardianship.

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Cross-border placement of a child including foster family - Malta

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.

The Social Care Standards Authority designated as the central authority for Malta is the responsible authority in this regard. See the reply to question 3 below.

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

The Social Care Standards Authority designated as the central authority for Malta is the responsible authority in this regard.

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 order to register a cross-border placement in Malta, the central authority of the requesting State must request the consent of the central authority for Malta. An application must be requested and submitted to the Social Care Standards Authority, Malta's central authority.

The procedure is as follows:

The central authority for Malta should receive a duly completed application form accompanied by the requested documentation. This application should be submitted by the central authority of the requesting State. All requested documentation should be sent in Maltese or English only.

Once the application form has been received, the central authority for Malta establishes what type of placement is under consideration.

The central authority for Malta sends the application and documentation on the relevant Maltese competent authority, e.g. the *Aġenzija Appoġġ* child-protection agency, depending on the case. In all cases, the competent authorities assess applications on the basis of their expertise, giving appropriate consideration to the following aspects regarding placements: educational/pedagogical, legal support, psychosocial/psychiatric and child safety/protection.

The central authority for Malta will then be in a position to communicate the decision of the Maltese competent authorities on the cross-border placement of the child to the central authority of the requesting State. **Placement may not commence until the central authority for Malta has given its consent.** The central authority of the requesting State then communicates the start date for the cross-border placement to the central authority for Malta.

Some of the documents that must be submitted with applications are:

- a) a copy of the national identity card/passport of the mother, father and children
- b) the birth certificate of the child(ren)
- c) a declaration of care and custody
- d) any other documentation deemed necessary.

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

The concept of 'foster family' does not appear in Maltese law. However, Article 2 of the 2007 Foster Care Act (Chapter 491 of the Laws of Malta) defines 'foster carer' as 'one or more persons approved by the Fostering Board to foster a child'. Similarly, Article 2 of the Minor Protection (Alternative Care) Act (Chapter 602 of the Laws of Malta), which is to replace the 2007 Foster Act when it enters into force, defines 'foster carer' as 'one or more persons approved by the Fostering Board to foster a minor'.

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

The concept of 'foster family' does not appear in Maltese law.

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Cross-border placement of a child including foster family - Austria

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.

1. Relocation abroad

If two people are entrusted with custody, they must also determine the place of residence by mutual agreement, in principle. This principle of mutual agreement applies without restrictions, that is to say, also in the case of the child moving within Austria, especially if the move involves a significant change in their life. Moreover, particularly in the case of a transfer of place of residence abroad, the parent wishing to move abroad will require the consent of the other parent or the approval of the Court. The Court must take into account both the child's welfare and the interests of the parents.

If one parent has been entrusted with primary custody by a Court decision or by an agreement, he/she has the sole right to determine the place of residence, in accordance with the wording of Section 162(2) of the Austrian General Civil Code (*Allgemeines bürgerliches Gesetzbuch*, ABGB). Consequently, no approval is required for a move within Austria.

However, under current case-law in such circumstances – especially when a child moving residence is an important matter – the parent with primary custody must also inform the other parent and take the child’s welfare into account. Moreover, a change in the place of residence should not significantly affect the exercise of custody by the other parent. This restriction applies in particular to a move abroad.

The same applies to foster parents who have custody; however, this rarely happens in practice, as custody usually remains with the Youth Welfare Authority.

2. Placement in institutional care or with foster parents

A placement with the consent of the custody holder(s) (more often than not the parents) does not require any further action. A placement without the consent of the custody holder(s) is nonetheless subject to judicial review by the Court, as an emergency measure within the meaning of the law.

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

See question 1.

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).

The consultation procedure must be addressed to the competent Court or Youth Welfare Authority (Kinder- und Jugendhilfeträger) via the Central Authority. If a Youth Welfare Authority is in charge of the consultation procedure, the following conditions apply:

	Conditions	Documents required
Magistrat der Stadt Wien (Municipal Authority of the City of Vienna) Amt für Jugend und Familie (Youth and Family Office) Gruppe Recht (Legal Services) Rüdengasse 11 1030 Vienna, Austria	Necessary for the child’s welfare The requesting authority agrees to bear the costs	Reference to Section 46 of the International Family Law Procedure Act (<i>Internationales Familienrechtsverfahrensgesetz</i> , IntFamRVG)
Amt der Ober-österreichischen Landesregierung (Office of the Regional Government of Upper Austria) Direktion Gesellschaft, Soziales und Gesundheit (Directorate for Society, Social Affairs and Health) Abteilung Kinder- und Jugendhilfe (Child and Youth Support Department) Bahnhofplatz 1 4021 Linz, Austria kjh.post@ooe.gv.at https://www.kinder-jugendhilfe-ooe.at/	Necessary for the child’s welfare Agreement to bear costs Place for care available Consent from the specific care institution Pre-established residence status Clear division of responsibilities between the requesting Member State (type, extent and payment) and the Member State requested (supervision of institution) Recognition of the professional standards of Upper Austria by the requesting authority Specification of the competent authority of the requesting Member State and contact details Institution in which the minor is to be placed (address) Data sheet about the minor, parents, siblings, custody holders Overview of assistance provided so far with upbringing Type of and reasons for the proposed placement Findings, diagnoses, reports, assessments Record of the hearing with the minor Outline of the contact rights of the biological parents Formal consent from the custody holder(s) Proof of health insurance or of existing social insurance cover	
Amt der Salzburger Landesregierung (Office of the Regional Government of Salzburg) Referat Kinder- und Jugendhilfe (Child and Youth Support Unit) Fanny-von-Lehnert-Strasse 1 Postfach 527 5010 Salzburg, Austria soziales@salzburg.gv.at	Agreement from the institution of placement Written agreement to bear costs from the requesting authority Consent from the carer and the local competent Youth Welfare Authority in the case of placement	Specification of the competent authority of the requesting Member State and contact details Institution in which the minor is to be placed (address, contact details) Data sheet about the minor, parents, siblings, custody holders Overview of assistance provided so far with upbringing Information on the reasons for the proposed placement, including a case history and a description of the problem Medical/psychiatric findings, diagnoses, assessments Record of the hearing with the minor Outline of the contact rights of the biological parents Formal consent from the custody holder Court decisions E109 form (proof of health insurance) or proof of existing social insurance cover Copy of the minor’s e-card Date of placement and planned duration

<p>Amt der Steiermärkischen (Office of the Regional Government of Styria) A11 Fachabteilung (A11 Policy Department) – Soziales und Arbeit, Referat Kinder- und Jugendhilfe (Social Affairs and Labour, Child and Youth Support Unit), Bereich Recht und Gewaltschutz (Law and Protection Against Violence team) Hofgasse 12/1/115 8010 Graz, Austria abteilung11@stmk.gv.at</p>	<p>Necessary for the child's welfare The requesting Member State bears the costs Consent given by the legal guardians Court decisions Medical findings Handover report from the competent requesting authority (background history, current social and family situation, description of problems and resources, conclusions and forecasts from the social worker, meeting of targets, brief assessment)</p>	
<p>Amt der Tiroler Landesregierung (Office of the Regional Government of Tyrol) Abteilung Kinder und Jugendhilfe (Child and Youth Support Department) Leopoldstrasse 3 6020 Innsbruck, Austria</p>	<p>The requesting Member State bears the costs Consent from the institution Support plan, case history and problem description are absolutely essential:</p>	<ul style="list-style-type: none"> - minor's data - parents' data - siblings' data - person holding custody - support provided so far <p>Any relevant reports, psychological assessments, etc. Written consent from the custody holders Proven consent from the minor under care – unless a hearing seems inappropriate due to the child's age or (proven) degree of maturity Proof of the minor's health insurance Copy of the minor's ID Written consent from the institution of placement Reasons given: - why this institution specifically? - if applicable, reason for the urgent need for assistance Start date and intended duration of assistance Future situation of the minor upon return</p>
<p>Amt der Vorarlberger Landesregierung (Office of the Regional Government of Vorarlberg) Landhaus Römerstrasse 15 6901 Bregenz, Austria Abteilung Soziales und Integration (Social Affairs and Integration Department) soziales-integration@vorarlberg.at</p>	<p>Consent from the institution of placement/foster family Agreement to bear costs</p>	<p>Competent requesting authority and contact details Desired institution/foster family (address) Minor's and parents' data Custody decision with the annotation: With the placement of ... in ..., the responsibility for care and upbringing is transferred to the institution/foster family. Support provided so far with upbringing Reasons for the placement; Support plan agreement; Future prospects Child and youth psychiatrist's/psychologist's findings /diagnoses Observations Minor's hearing Consent from the custody holders Proof of health insurance</p>
<p>Amt der Niederösterreichischen Landesregierung (Office of the Regional Government of Lower Austria) Gruppe Gesundheit und Soziales (Health and Social Affairs) Abteilung Jugendwohlfahrt (Youth Welfare Department) Landhausplatz 1, 3109 St. Poelten, Austria</p>	<p>Necessary for the child's welfare and/or there is a reference person in Lower Austria for the child's welfare Written agreement to bear costs Suitable care placement Agreement from the specific institution Recognition of the professional standards of Lower Austria Regular review of the support plan, including objectives for upbringing, by the requesting authority Declaration of a contact person in case ending the measure becomes necessary Current reports on physical, emotional, social, school/professional development Current medical findings Copy of essential documents for the minor, e-card Information on pharmaceutical therapies Support plan, including support granted so far Problem description, social and psychological diagnosis, target setting, duration and forecast of the measure</p>	

	Record of the minor's hearing with regard to the planned measure Written consent from the custody holder Agreement on how to organise potential visiting rights	
Amt der Burgenländischen Landesregierung (Office of the Regional Government of Burgenland) Landesregierung Abteilung 6 – Soziales, Gesundheit, Familie, Sport (Department 6 – Social Affairs, Health, Family, Sport) Europaplatz 1, 7000 Eisenstadt, Austria	Necessary for the child's welfare Agreement to bear costs Consent from the institution or carer Specification of the competent authority and declaration of competence Minor's data Information on the problem at hand (reason for placement, objectives, findings, assessments, certificates, Court decisions) Declaration of consent from the custody holders	

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

We would like to highlight two things about the concept of 'foster parent' in Austrian law. If parental responsibility is involved, foster parents are the persons who (in part or in full) provide care for and raise the child and with whom a relationship similar to that between biological parents and children exists or is envisaged (Section 184 ABGB). The conditions and measures for checking which persons (or couples) to whom (only) care and upbringing can be entrusted by youth welfare authorities are set out in the laws of each of the nine Austrian regions.

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

In Austrian legislation, the concept of 'foster parent' can intentionally be interpreted very broadly. Apart from grandparents, who have special status under Section 178 ABGB, any (other) relative may be a foster parent if he/she provides care for and raises the child (in part or in full) and, at the very least, has the intention of establishing a child-parent relationship close to that of a biological parent. Whether such persons are subject to checks by the Youth Welfare Authorities is also determined by the laws of each of the nine Austrian regions. In general, close relatives such as grandparents and parents' siblings are exempt from such checks.

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Cross-border placement of a child including foster family - Portugal

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.

Yes, consultation and prior consent are necessary for decisions to place a minor with a foster family or in an institution in Portugal.

Consultation and prior consent are not necessary if the child is entrusted to a person with family ties, e.g. grandparents, uncles and aunts, or older siblings.

In such cases, it is sufficient for the authority deciding on the placement simply to inform the central authority for Portugal.

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

The central authority for Portugal for the purposes of Regulation (EC) No 2201/2003 is:

DGRSP – Directorate-General for Rehabilitation and Prison Services (*Direcção-Geral de Reinserção e Serviços Prisionais*)

Legal Assistance and Dispute Department (*Gabinete Jurídico e Contencioso*)

Travessa da Cruz do Toreal 1

1150-122 Lisbon (Portugal)

Telephone: (+351) 218 812 200

Fax: (+351) 218 853 653

E-mail address: gjc@dgrsp.mj.pt

[Website](#)

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).

Stages of the procedure for placing young people in Portugal under Article 56 of the Brussels IIa Regulation

ACP = Central Authority for Portugal

Stage 1 – Prior authorisation for placement by the ACP

prior authorisation request from the central authority of the requesting country;

review of the documentation submitted and assessment against the criteria and conditions for placement;

issuance of a prior authorisation approval or refusal by the ACP;

purely indicative deadline: 1-3 months from receipt of all the documents required in support of the request, depending on the complexity of the case.

Stage 2 – Declaration of enforceability by the Court

An application for recognition and enforceability is filed with the Court (the Family and Minors Division (*Juízo de Família e Menores*) of the area in which the foster family or institution is located) by the foster family, the framework institution or the institution to which the child was entrusted. This application must be accompanied by documentation attesting to the prior consent of the ACP and by supporting documents giving details of the placement: duration, intervention plan, declaration from the foster family that they are able to financially support themselves.

Or, alternatively:

The placement decision/ruling issued by the administrative or judicial authority of the country of origin is sent to the ACP, together with additional documentation giving details of the placement: duration, intervention plan, declaration from the foster family that they are able to financially support themselves.

The ACP forwards the application for enforceability of the measure to the Public Prosecutor's Office (*Ministério Público*) at the competent Court, where it will be officially lodged on behalf of the child.

The Court issues its decision. In the event of a declaration of enforceability, the Court may indicate the Social Security Institute (*Instituto da Segurança Social* (IP)) as the body responsible for monitoring the implementation of the measure within Portugal.

Stage 3 – Execution of the placement measure in Portugal

Once the decision of enforceability has been issued, the child or young person may come to Portugal and commence their placement measure.

If the application for a declaration of enforceability was sent via the ACP (and in any case where the Court informs the ACP of its decision), the ACP should forward the Court's decision to its counterpart.

The Social Security Institute monitors the measure and drafts periodic reports on the implementation of the measure to be sent to the Court and the ACP, where the Court so orders.

Any extension of the measure is subject to a new prior authorisation by the ACP, followed by the rest of the procedure set out above.

For information, a list of the documents required by the ACP before authorising the placement of a child with a foster family or institution in Portugal can be found in English at the following [link](#).

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

Article 12 of Decree-Law No 139/2019 laying down rules for the application foster family measures in Portugal reads as follows:

A foster family may be:

- a) a single person;*
- b) two married or unmarried persons;*
- c) two or more persons linked by family ties and living in the same household.*

In the cases referred to in points (b) and (c) of the previous paragraph, one member of the foster family shall be the person responsible for the fostering.

The persons referred to in paragraph 1 who are entrusted with the care of a foster child or young person may not have any family relationship with that child or young person.

Article 6 of this Decree-Law lays down that management of the foster family system is the responsibility of the Social Security Institute and the Lisbon Holy House of Mercy (*Santa Casa da Misericórdia de Lisboa*), working together with the framework institutions designated by national law as specific social solidarity bodies, or similar, working in the field of children and young people and which have entered into cooperation agreements with the Social Security Institute.

Article 5(2) of the Decree-Law lays down that foster care measures decided upon in court proceedings are to be managed and monitored by the Court, designating the specific teams for this purpose provided for in Law No 147/99 on the protection of children and young people in danger.

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

No, under Portuguese law the concept of 'foster family' does not cover relatives (cf. Article 16(3) of Decree-Law 139/2019, referred to in the reply to the previous question).

Relevant legislation:

[Decree-Law 139/2019](#)

[Law 147/99](#)

Final note:

This information is not binding on the Portuguese contact point, the courts, or other bodies or persons consulting it. Despite the care put into the drafting of this information, it remains necessary to consult the legislation in force at any given time.

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Cross-border placement of a child including foster family - Slovakia

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.

Consent is required for a child to be placed in foster care. As the authority competent for Article 56, when asked to give its consent to a cross-border placement of a child the Centre for International Legal Protection of Children and Youth always consults the Central Office for Labour, Social Affairs and the Family in its capacity as a body responsible for the welfare and legal protection of children and for social guardianship.

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

The expert recommendation of the Central Office is binding on the Centre.

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).

The Centre requests sufficient information and relevant documentation concerning the procedure and then consults the Central Office regarding the placement. When a child is to be placed in a childcare facility the specific task of the Central Office is to ensure a place for the child in an appropriate childcare facility in Slovakia.

The Central Office then issues the Centre with a recommendation on the case and, if the child is to be placed in a childcare facility, on the specific facility where he or she is to be placed.

As a rule, the Centre requests information and documents on court proceedings and decisions already taken by courts, on family members of the child, as well as the reasons for the placement, opinions of psychologists or social workers, and any other expert opinions.

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

Act No 36/2005 on the Family states that if parents fail to provide or are unable to provide care for a minor child and if warranted in the interest of the minor child, a court may decide to place the child in the foster care of a natural person who is interested in becoming in a foster parent and meets the requirements. The foster parent is obliged to provide the same care for the minor child as the care provided by parents. The foster parent has the right to represent the minor child and administer his/her assets only in ordinary matters. During foster care, the parents of the minor child exercise only those parental rights and obligations that are not the responsibility of the foster parent. Where a foster parent thinks that a decision on a fundamental matter taken by the legal guardian of a minor child is not compatible with the interest of that, they may seek to have that decision reviewed by a court. Parents have the right to interact with a minor child that has been placed in foster care. Where parents and the foster parent are unable to agree on the exercise of that right, the matter is decided by a court further to a request by one of the parents or the foster parent. When deciding on placing a minor child in foster care, a court determines the extent of the maintenance obligations of the parents or other natural persons obliged to provide maintenance for the child and requires them to pay the maintenance to the child welfare and legal protection body.

In addition to foster care, Slovak law recognises another form of substitute care (termed 'substitute personal care'), which, however, is not considered foster care. When a minor child is placed in substitute personal care, the court gives precedence to relatives of the minor child, if they meet the requirements.

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

The family relationship or degree of relationship is not relevant when making a foster parent assessment. However, it may happen that a related child is also placed in foster care if the foster parent meets the legal requirements, in which case 'foster family' may include relatives.

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Cross-border placement of a child including foster family - Sweden

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.

All placements of children in a home other than their own is subject to prior consultation and consent. If the child is to be placed with the parents of the child or persons having custody of the child, prior consultation and consent are not required.

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

The social authority of the municipality in which the child is to be placed.

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).

An essential prerequisite for consent is an assessment by the Social Welfare Board concluding that the placement is in the best interest of the child. The starting point for any assessment of whether or not the placement is in the best interest of the child should be the child's link to Sweden, e.g. whether the child has social contacts with parents or relatives in Sweden or whether their national or cultural background is in Sweden. The same applies *mutatis mutandis* to a placement abroad. A further requirement for consent to a placement in Sweden or a decision on a placement abroad is to find out the child's attitude towards the placement, to the extent possible. In addition, the consent of the Social Welfare Board is subject to the child's guardian and, if the child has reached the age of fifteen, the child agreeing to the measure. Before consent may be granted, the conditions in the individual home and the conditions for care in the home must be investigated and the child must have a resident permit, if a residence permit is necessary.

The Social Welfare Board should conduct the investigation for possible consent promptly and complete it within four months at most. Investigations may be extended for a certain period of time if there are special reasons for doing so. In order for an investigation to be carried out, the foreign authority must indicate in the file which individual home is concerned by a request for placement.

Social Welfare Boards having approved a placement in Sweden are not liable for costs incurred in connection with the placement, e.g. the child's living costs or foster home fees.

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

The term 'foster family' does not exist in Swedish legislation. Children can, however, be placed in a foster home. Chapter 3, Section 2 of the Social Services Ordinance (2001:937) defines 'foster home' as an individual home which, on behalf of the Social Welfare Board, takes in children for permanent care and education or adults for care and nursing and which is not run on a professional basis.

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

The Swedish concept of 'foster home' covers all relatives of the child. However, no consent or specific decision on care is required from the Social Welfare Board for placements in an individual home belonging to one of the child's parents or another person having custody of the child.

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Cross-border placement of a child including foster family - England and Wales

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.

In order for the State via the local authority to place a child it would need to be acting in accordance with the [Children Act 1989](#). This would either be under section 20 which requires the local authority to accommodate a child in certain circumstances or under a care order made by a court under section 31. The needs of the child take primary consideration in any placement decisions made by local authorities under the law in England. [The Care Planning, Placement and Case Review \(England\) Regulations 2010](#) ("the 2010 Regulations") stipulate that for children who are accommodated by or who are in the care of the local authority the care plan should, so far as is reasonably practicable, be agreed by the responsible authority with any parent of the child and/or any person who is not the child's parent but who has parental responsibility for them, or if there is no such person, the person who was caring for the child immediately before the responsible authority arranged a placement for child. For any child aged 16 or over who agrees to be accommodated by the local authority the 2010 Regulations require that the care plan is agreed with the child themselves.

With regards to arrangements that meet the definition of private fostering, the local authority must determine whether the welfare of the child will be satisfactorily safeguarded and promoted and should determine the suitability of all aspects of the private fostering arrangements in accordance with their duties under section 67 of the Children Act 1989. In order to achieve this [The Children \(Private Arrangements for Fostering\) Regulations 2005](#) ("the 2005 Regulations") provide that the local authority is notified of the arrangement by the private foster carer at least 6 weeks in advance of the arrangement beginning but if it is to begin within 6 weeks then the local authority should be notified immediately. Any person involved in the private fostering of the child should notify the local authority as soon as possible after the arrangement is made. The local authority must visit the accommodation and speak to the proposed private foster carers, members of the household and the child and if possible visit and speak to the parents of the child and anyone else with parental responsibility for the child. Various details as set out in the Schedules to the 2005 Regulations must be ascertained by the local authority as far as possible.

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

In the case of placement of a child by a local authority, consultation and consent must be carried out in accordance with section 20 of the Children Act 1989, i. e. placement must be agreed by parents or others with parental responsibility for the child and if the criteria for accommodating the child are met.

Alternatively, the child may be placed by a local authority in accordance with a care order made by the court. In both cases, the local authority must comply

with the Children Act 1989 and with the 2010 Regulations in particular. The local authority must, as far as it is reasonably practicable to do so, seek to get agreement on the care plan, which sets out how the local authority will meet the child's needs with the child's parents or any other person with parental responsibility for the child, and where appropriate given their age, with the child.

In the case of a private fostering arrangement, the private foster carer becomes responsible for providing the day to day care of the child in a way which will promote and safeguard their welfare. Overarching responsibility for safeguarding and promoting the welfare of the privately fostered child remains with the parent or other person with parental responsibility. Local authorities do not formally approve or register private foster carers. However, it is the duty of local authorities to satisfy themselves that the welfare of children who are, or will be, privately fostered within their area is being, or will be, satisfactorily safeguarded and promoted. It is the local authority in whose area the privately fostered child resides which has legal duties in respect of that child. The 2005 Regulations place a duty on parents, or the person with parental responsibility, as well as the private foster carers and anyone else involved (whether directly or indirectly) in arranging for the child to be privately fostered to notify the local authority of a proposed or actual private fostering arrangement. Furthermore, education, health and other professionals should also notify the local authority of a private fostering arrangement that comes to their attention, where they are not satisfied that the local authority has been, or will be, notified of this arrangement.

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 placement by a local authority, the 2010 Regulations stipulate timings around the care planning process but not the notification of the decision around the placement. The care plan must be prepared before the child is first placed by the responsible authority or, if it is not practicable to do so, within ten working days of the start of the first placement. It must be kept under review, overseen by the Independent Reviewing Officer. The responsible authority must first review the child's case within 20 working days of the date on which the child becomes looked after. The second review must be carried out not more than three months after the first, and subsequent reviews must be carried out at intervals of not more than six months. Reviews are conducted by the child's social worker (appointed by the responsible authority) and should demonstrate consultation with the child and other parties including the foster carers, the child's school or nursery, medical practitioner or any other relevant person, as appropriate.

The 2005 Regulations stipulate the timing for notification, assessment and the continued requirement for a local authority to satisfy themselves that the welfare of the children who are privately fostered in their area is safeguarded and promoted. In relation to notification, a person who proposes to privately foster a child must notify the appropriate local authority of the proposal at least 6 weeks before the date on which the private fostering arrangement is to begin or immediately where the arrangement is to begin within 6 weeks. Furthermore, any person, including a parent or other person with parental responsibility for a child, who is or isn't involved (whether or not directly) in arranging for the child to be privately fostered must notify the appropriate local authority of the arrangement as soon as possible after the arrangement has been made. The local authority must visit the private fostering arrangements within 7 days of being notified of the arrangement. The local authority will assess the arrangement or proposed arrangement. Local authorities will then carry out follow-up visits. The number of visits required is at intervals of not more than six weeks in respect of the first year and twelve in the second and subsequent years of the arrangement.

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

Under legislation in England a foster family is where a local authority places a child with a foster parent that is a person approved by a registered fostering services agency, following an assessment of their suitability and the suitability of their household, to foster a child or young person who has been taken into the care of the state. An agency can assess and approve any person that they consider to be suitable. As part of the assessment process, the agency will consider the potential impact of or contribution made to fostering by all members of the household. Any members of the household not approved to foster are expected to undergo police checks, the results of which may impact on assessment of the suitability of the household.

Furthermore, private fostering occurs in accordance with section 66 of the Children Act 1989 when a child under the age of 16 (under 18 if disabled) is provided with care and accommodation by a person who is not a parent, person with parental responsibility for them or a relative (as defined under section 105 of the Children Act 1989 - i.e. a grandparent, brother, sister, uncle or aunt (whether of the full or half blood or by marriage) or a step-parent will not be a private foster carer) in their own home. A child is not privately fostered if the person caring for them has done so for less than 28 days and does not intend to do so for longer. Exemptions to this definition are set out in Schedule 8 to the Children Act 1989. Unless the young person is disabled within the meaning of the Children Act 1989, the young person will cease to be privately fostered at the age of 16, but if the living arrangements continue then statutory guidance – [Replacement Children Act 1989 Guidance on Private Fostering](#) - will continue to apply as the arrangement will revert to that of informal family and friends care.

The private foster carer becomes responsible for providing the day to day care of the child. The parent will continue to hold parental responsibility for the child. The local authority does not formally approve or register a private foster carer. However, it is the duty of the local authority where the child resides, to satisfy themselves that the welfare of children who are, or will be, privately fostered within their area is being, or will be, safeguarded and promoted. During that assessment the local authority must determine the suitability of all aspects of the private fostering arrangements, in accordance with the 2005 Regulations. Where the local authority is not satisfied that the welfare of a privately fostered child is being, or will be, satisfactorily safeguarded or promoted, it must take reasonable steps to ensure that the child is accommodated by their parent (or other person with parental responsibility) or relative and consider whether they need to exercise any of their functions under the Act in relation to the child.

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

In relation to placement by the State through the local authority only in circumstances where relatives have been through the fostering assessment process and have been approved by a fostering panel, convened by a foster service provider, as suitable to foster. Known as 'family and friends' foster carers, they account for approximately 18% of all foster carers in England. They are assessed under a lighter touch approach and whilst they receive financial support to help with the cost of looking after the child or children they are not expected to foster non-related children. This could be anyone that is either related to or has a connection with the child.

In the case of private fostering, a private foster carer may be from the extended family, such as a cousin or a great aunt. However, a person who is a relative in accordance with the definition of a relative under the Children Act 1989 i.e. a grandparent, brother, sister, uncle or aunt (whether full or half blood or by marriage) or step-parent will not be considered to be a private foster carer. A private foster carer may be a friend of the family, the parent of a friend of the children, or someone previously unknown to the child's family who is willing to privately foster a child. It must be stressed though that for it to be considered a private fostering arrangement the child must be under the age of 16 (under 18 if disabled) and being provided with care and accommodation for a period of 28 days or over.

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Cross-border placement of a child including foster family - Northern Ireland

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.

Yes – under Article 26 of the [Children \(Northern Ireland\) Order 1995](#) (the Children Order) there is a requirement to ascertain the wishes and feelings of the child, their parents or anyone else with parental responsibility or any other relevant person and to give due consideration to those wishes and feelings with regard to making a decision about that child's welfare.

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

The Northern Irish legislation tends to mirror the [Children Act 1989](#) of England and Wales. There are three categories -

- Informal – arrangements between parents and relative(s) with no involvement from social services;
- Voluntary accommodated – arrangements between parents and local authority (Articles 21 and 27 of the Children Order refer);
- Care Order – obtaining this Order requires an application to Court (Articles 27 and 50 of the Children Order refer).

Private fostering arrangements are similar to England and Wales (see the factsheet for England and Wales)

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).

There is a suite of pro-formas available to facilitate the exchange/provision of information when a child or young person becomes looked after and for on-going review purposes.

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

The Children Order does not define 'family'. The Children Order defines 'authority foster parent' as placing with a family, a relative of his or any other suitable person as defined by Article 27(3) of the Order.

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

Article 27(2)(a) of the Children Order permits placing a child with –

- (i) a family;
- (ii) a relative of his; or
- (iii) any other suitable person.

A "relative" is defined in Article 2(2) of the Children Order as "in relation to a child, means a grandparent, brother, sister, uncle or aunt (whether of the full blood or half blood or by marriage or civil partnership), or step-parent".

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Cross-border placement of a child including foster family - Scotland

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.

National law for child being cared for a Relative (kinship care)

There are several legal ways a Scottish child can be cared for by relatives. These are by

a. An informal arrangement.

A child can be cared for by a relative or friend (kinship carer) by agreement between the parent and the kinship carer without the consent or knowledge of the Member State. The relative could be in Scotland or elsewhere.

b. By placement by the local authority responsible for the child (under section 25 [Children \(Scotland\) Act 1995](#)).

Where there is no one able to look after a child or the parent consents to the child being cared for by the Member State, the local authority in charge of the child's welfare is required to assess the needs of the child and take into account the views of those involved, including the relative, or friend (kinship carer) and the child, before making plans about the child and a written agreement would be required between the carer and the local authority. At a minimum police checks and health checks are done.

c. By an order by a children's hearing. ([Children's Hearings \(Scotland\) Act 2011](#)).

The children's hearing will name which local authority is responsible for the child. This is usually the local authority where the child lives. Parents and others with parental responsibilities have a right to attend a hearing. Other close relatives may attend.

A child may be referred to a children's hearing who will make a decision of where a child is to stay. There is a right of appeal to the sheriff court. If the decision is to place a child with a relative the carer and their property has to be considered suitable, and they must consent to looking after the child.

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

The local authority in charge of the child is responsible for providing an assessment of the relative carer. If the relative lives in a different local authority then this assessment could be completed in liaison with the local authority where the carer lives if the local authorities agree.

The local authority responsible for the child will check and retain responsibility for ensuring the suitability of the relative. This may require that the local authority for the child will visit the relative more than once and/or may rely on the local authority where the relative stays for information. It is essential that both local authorities communicate closely to make sure that the assessment is as robust as it should be.

There is a risk that if an assessment is abbreviated that the placement will break down and not meet the needs of the child. A comprehensive assessment is also required to ensure that the child and relative have the correct supports once they move to live with the relative. This would also be the case if the decision was for a child to be moved to another country.

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).

[Looked after Children Regulations \(Scotland\) 2009](#), regulation 11 sets out the general principles to be followed by local authorities.

A local authority must not place a child with a kinship carer unless they are satisfied that–

- (a) placement is in the best interests of the child;
- (b) placement of the child with that kinship carer is in the best interests of the child;
- (c) following the assessment referred to in regulation 10(3), that kinship carer is a suitable person to care for the child;
- (d) they have taken into account all information available to them relevant to the performance of their duties under section 17(1) to (5) of the 1995 Act;
- (e) the kinship carer has entered into a written agreement with the local authority under regulation 12; and
- (f) the kinship carer has entered into a written agreement with the local authority as to the matters specified in Schedule 4.

For the assessment procedure, at a minimum police checks and health checks are carried out for short term decisions and a full assessment is carried out by the local authority responsible for the child for longer term decisions of up to one year. The assessment includes an assessment of the carer's suitability to look after the child- that they themselves are suitable and also that their accommodation is also suitable for them to care for the child.

The model of assessment in kinship care should clearly consider the child's needs alongside the capacity of the kinship carer to meet them. As such, it should be linked with the review of the initial arrangements according to the following timescales:

- At three days;
- Six weeks;
- Completion of the kinship assessment in time for the child's review at 4.5 months

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

A foster family in Scotland is one that includes at least one adult who has been recruited, approved and registered as a suitable carer for a looked after child with a local authority, private or voluntary fostering agency, who themselves are registered with the Care Inspectorate and inspected annually against national standards of care.

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

No. In Scotland this would be defined as a 'Kinship Care' arrangement. A Kinship Carer in Scotland is:

- i) a person related to the child by blood, marriage or civil partnership- with no restrictions on closeness of that related status;
- ii) a person known to the child and with whom the child has a pre-existing relationship. This could include close friends or people who know the child well through regular contact and can be seen as part of the child's network.

Relative is not restricted to any group or category.

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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 VIII A 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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