

HOW TO USE *the* CHARTER

A manual for State authorities and family mediators

OBJECTIVES OF THE CHARTER

The *Charter for International Family Mediation Processes* is the result of a **Collaborative Process** that commenced in 2015, with **55** family mediators from **24** countries from **all continents** discussing their understanding of international family mediation practice to create a set of uniform standards to be respected across the world.

The Charter is intended to be **an international document of reference** for international family mediation. Its **10 core principles** are in line with existing family mediation standards. They highlight key requirements for organising and conducting international family mediation and emphasise the need for specialist mediation training. Respect for all 10 core principles is fundamental to the practice of international family mediation.

This Charter aims to increase the **visibility of qualified and reliable professional mediators**, to promote **confidence in and understanding of the mediation process**, and to increase awareness that the professionalising of, and access to, mediation is promoted by **unified professionals at the global level**.

USE OF THE CHARTER

The Charter was drafted as a summary document concentrating on the particularities and key issues of international family mediation. It serves as a simple and concise reference for all stakeholders involved in handling cross-border family disputes and as **a working tool** for various professionals organising and facilitating international family mediation. An international family conflict can also take the form of parental child abduction as well as any other wrongful cross-border removal of a child (for example, child trafficking and exploitation).

Furthermore, the Charter is meant to:

- ✧ inform **families** of the appropriate professional standards and the quality they can expect from international family mediation services
- ✧ help **mediators and authorities** to prepare and structure international family mediation processes
- ✧ guide the **conduct of mediators** during international family mediation
- ✧ serve as a basis to develop specialist **mediation training** across the world
- ✧ promote **the establishment of specialised** international family mediation **services**
- ✧ set the groundwork for **a global network** of international family mediators
- ✧ be a source for **harmonising legislation** concerning international family mediation **globally**.

RECOMMENDATIONS *concerning* PROMOTION OF *and* ACCESS TO MEDIATION

Administrative and judicial State authorities are strongly encouraged to promote the use of, and access to, international family mediation on the basis of the core principles of the Charter. They are, in particular, invited to consider the following recommendations:

I. INFORMATION ON MEDIATION

- ✧ Family members involved in cross-border family disputes concerning children should be informed about the advantages of international family mediation, particularly when these conflicts relate to international relocation and cross-border exercise of parental responsibility. Information should be given on the mediation process, how it works, and its legal implications. It should be explained that mediation may be possible before, during and after court proceedings. In addition, the principle of confidentiality of mediation and its exceptions should be explained (see Core Principle 5).
- ✧ The *ISS Guide to International Family Mediation* and the Hague Conference on Private International Law's *Guide to Good Practice on International Family Mediation* can be of assistance in informing families about these matters (the links to these are at the end of this document).

II. REFERRAL TO SPECIALIST MEDIATION SERVICES

- ✧ In view of the specific challenges of cross-border family disputes, State authorities should refer the families concerned to specialised cross-border family mediators, mediation structures and services (see Core Principles 9 and 10), including mediation services available in another country (see the Useful Links section at the end of this document).
- ✧ While mandatory attendance at a session providing information on mediation is an option, mediation itself remains a voluntary process; that is, the participants cannot be forced to settle their dispute through mediation (see Core Principle 1).

III. PARTICULARITIES OF INTERNATIONAL CHILD ABDUCTION CASES

- ✧ Experience shows that mediation can help to prevent international child abduction. Therefore, parties in disputes where one parent might consider moving abroad should be encouraged to try mediation as early as possible.
- ✧ International child abduction cases have their own particularities. Therefore, the families concerned should be referred to experienced mediators and mediation services specialising in cross-border child abduction cases. It should also be ensured that information on urgent legal matters, such as important deadlines, is made accessible through the Central Authorities under the 1980 Hague Child Abduction Convention and through specialist practitioners.
- ✧ In international child abduction cases, the parties in the dispute should be encouraged to participate in mediation as a means of resolving together, to the extent possible, the residence details of the children, and as a means of facilitating the enforcement of court decisions regarding the return of the children. Mediation is intended to allow the parents to renew or improve communication within the family in the best interests of the children.

IV. PROTECTION OF THE RIGHTS, WELFARE AND SAFETY OF ALL INVOLVED

- ✧ Mediation should not put the rights, welfare and safety of those concerned at risk (see Core Principle 2). Not all cases are suitable for mediation, and at times mediation may have to be accompanied by the implementation of protective measures.
- ✧ Participants in mediation should have access to relevant legal information to allow informed decision-making (see Core Principle 3). State authorities should, to the extent feasible, provide relevant neutral legal information or refer participants to other bodies or specialised practitioners for legal advice.
- ✧ Particular importance is to be given to the rights, welfare and interests of the child(ren) affected by the conflict (see Core Principle 8). Depending on the State policy and mediation scheme being practised, and the specific family circumstances, a child-inclusive or child-focused mediation approach may be recommended.

V. ASSISTANCE WITH RENDERING THE MEDIATED AGREEMENT LEGALLY BINDING AND ENFORCEABLE IN ALL COUNTRIES CONCERNED

- ✧ To the extent feasible, State authorities should support the participants in their efforts to render their mediated agreement legally binding and enforceable in all jurisdictions concerned.

VI. FINANCIAL ASSISTANCE

- ✧ State authorities should consider the feasibility of providing financial support to families that participate in international family mediation, or refer the participants to sources of financial assistance for mediation.

VII. PROMOTION OF THE ESTABLISHMENT OF SPECIALISED MEDIATION SERVICES, COOPERATION AND NETWORKING

- ✧ State authorities are encouraged to strengthen cooperation with specialised mediation structures, and to support inter-country cooperation, to further promote the establishment and consolidation of specialised international family mediation services, including information hotlines.
- ✧ State authorities dealing with international family disputes may consider assigning a reference person for international family mediation, or similar collaborative settlement mechanisms, to interact with relevant services and practitioners.
- ✧ To the extent feasible, State authorities should assist with the establishment of lists of professionals that provide specialist legal advice on international family disputes (structures, lawyers, etc.) in each country.
- ✧ State authorities are encouraged to support the strengthening of multidisciplinary collaboration among the various stakeholders involved in cross-border conflicts (such as legal practitioners, courts, social services and specialist mediation services) to provide the most suitable support to the family members concerned in international family disputes.
- ✧ State authorities are encouraged to keep records of the numbers of cases referred to international family mediation and to evaluate possible cost savings to the national budget, as has already been done in some countries.

USEFUL LINKS

- ✧ ISS *Guide to International Family Mediation*, available at
<www.ifm-mfi.org/en/guide>

- ✧ The Hague Conference on Private International Law's *Guide to Good Practice on International Family Mediation*, available at
<https://assets.hcch.net/upload/guide28mediation_en.pdf>

- ✧ Further information on International Family Mediation at
<www.ifm-mfi.org>

- ✧ For assistance with finding specialist international family mediators, country by country, see:

Country Information Section, including also legal and psychosocial support desks, at
<www.ifm-mfi.org/en/country_info_main_page>

The Hague Conference's Central Contact Points for international family mediation, which are listed at
<www.hcch.net/en/publications-and-studies/details4/?pid=5360>

The global network of cross-border family mediators at
<www.crossbordermediator.eu>

MiKK e.V. International Mediation Centre for Family Conflict and Child Abduction at
<www.mikk-ev.de>