



# Cross-Border Family Mediation - International Parental Child Abduction - Custody and Access Cases (Second and updated edition)

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**Edited by:** Christopher C Paul and Sybille Kiesesewetter.

**Contributors:** Eberhard Carl, Mary Carroll, Martina Erb-Klunemann, Mohamed M Keshavjee, Krya Nehls, Hansjorg Schwartz, Jamie Walker and Felix Wendenburgh

## Book review

People have always relocated across borders in order to explore different cultures and lands. People also depart their own country for many other reasons, such as conflict, war or lack of work opportunities and their emotional journey is a key factor in how they adapt.

Sustained globalisation has created opportunities for many who find themselves working and living in different countries to their place of birth. It naturally follows that many settle, enter relationships and have children and, in many instances, bi-national divorces and separations ensue. When one parent returns to their home country and takes a child or children with them without permission, this often results in conflict and is known as cross-border child abduction.

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For academics and practitioners working in this complex area and honing their skills on the best approach to support these parents, this book is invaluable. The cases compiled in the book and the information it provides will help the reader to further understand the complex settings in which cross-border family mediation takes place.

The first edition of the book was published in German in 2009 and in English in 2011. It quickly became known as the reference book for family mediation practitioners and legal professionals working in the field. The second edition, translated into English in 2014, with the support of Mary Carroll, one of the contributors, aims to explore more deeply the multi-cultural challenges that arise and to study the co-mediation style used. The many professional contributors to the book invite the reader to explore cases with the benefit of their experience.

For the student and experienced mediator and professional alike, this book offers an in-depth view of all aspects of the cross-border family mediation process. It gives the reader an opportunity to learn from the experiences of practitioners and their case studies, noting the methods used in the process and providing the benefit of sample agreements and court orders.

This second edition further explores how mediation works within the court system and also examines multi-cultural arrangements, with a special emphasis on non-Hague Contracting States. It discusses how international convention law and the conflict-of-law rules support legal professionals in their work and help to protect the children involved in these cases. This discussion offers the reader an opportunity to evaluate how the mediator can best support parents in finding their own solutions for the child.

The chapter on bridging the linguistic gap explores the importance of an appropriate interpreter, whose role is to support practitioners and participants as they try to resolve cross-border cases. Carroll discusses the paramount importance of ensuring the interpreter has the correct specialised training and considers the

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complications which may arise from an *ad hoc* approach to this essential element of mediation.

The work of the mediator and the ethical considerations, according to Carroll, can be impaired unless the interpreter is fully aware of the mediation process and has the skills required to handle conflict. There is a really useful and informative graph in this chapter, which clearly outlines the skills required to become a competent interpreter. This graph catalogues the key proficiencies, such as professional ethics, intercultural competence, social skills and knowledge of the mediation process. It emphasises the importance of empathy and understanding and stresses how essential it is for a successful interpreter to be much more than a mere translator of the words spoken.

Carroll gives examples in which the interpreter has become overwhelmed with emotion and unable to continue. She writes that pre-assessment and choice of an interpreter can be as crucial to the success of a mediation as the choice of the mediator. This can be one of the challenges in cross-border child abduction mediation cases as an interpreter's lack of experience and training can inhibit the work of the mediator and damage the mediation process. Carroll documents how the addition of an interpreter in mediation may not only change the dynamics in the room, but also how body language and bilingual exchanges can also play a key role in the mediation process. She emphasises that choosing a competent interpreter is a key element in successful mediation and stresses how essential it is for the mediator to have a briefing beforehand in which they can establish roles and become familiar with the process.

While exploring the legal framework of child abduction cases, Krya Nehls discusses the international rights of custody and access. The implications of the Brussels 11bis Regulation and The Hague Convention are teased out whilst also focusing on Powers of Authorities and the Law Applicable in respect of the protection of infants. This legal regulation is paramount in the field of family law and several conventions have agreed on this framework to ensure decisions are enforced swiftly and smoothly under the Hague Convention agreements. This

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process is a further opportunity to ensure that decisions arrived at by the parties to mediation are applied without delay for the benefit of the child or children. The regulations and their application are discussed and defined clearly in these chapters, to ensure the reader has a full understanding of each category.

This book will be of great benefit to practitioners. It is easy to read and easy to comprehend. The contributors, with their valuable and diverse experience, have offered a clear view of the role of mediator within the legal system in this complex arena. The trauma for parents of being involved in child custody cases and the challenges for legal practitioners and mediators in this field are fully explored and the process of support available is clearly outlined by each contributor.

The studies and the methodology applied will be of great benefit in understanding the challenges involved. It is easy to see why the book has established itself as a key reference and guide for all professionals working in this field.

**Emily Dunne**

MA in Mediation and Conflict Intervention, Edward M Kennedy Institute for Conflict Intervention, Maynooth University