



Plenary sitting

B8-0487/2016

20.4.2016

MOTION FOR A RESOLUTION

pursuant to Rule 216(2) of the Rules of Procedure

on safeguarding the best interests of the child across the EU on the basis of
petitions addressed to the European Parliament
(2016/2575(RSP))

Cecilia Wikström

on behalf of the Committee on Petitions

European Parliament resolution on safeguarding the best interests of the child across the EU on the basis of petitions addressed to the European Parliament (2016/2575(RSP))

The European Parliament,

- having regard to Article 228 of the Treaty on the Functioning of the European Union (TFEU),
- having regard to Article 81(3) TFEU,
- having regard to the European Charter of Fundamental Rights, in particular Article 24 thereof,
- having regard to Articles 8 and 20 of the United Nations Convention on the Rights of the Child, which underline the obligation of governments to protect a child's identity, including his or her family relations,
- having regard to the Vienna Convention on Consular Relations of 1963, in particular Article 37(b) thereof,
- having regard to the Hague Convention of 29 May 1993 on Protection of Children and Cooperation in Respect of Intercountry Adoption,
- having regard to 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, repealing Regulation (EC) No 1347/2000 (Brussels IIa)¹,
- having regard to the EU Agenda for the Rights of the Child (COM(2011)0060),
- having regard to the guidelines drawn up in the reflection paper for the 9th European Forum on the Rights of the Child,
- having regard to the mapping of the child protection systems carried out by the Fundamental Rights Agency,
- having regard to the numerous petitions on practices of child welfare authorities and the protection of children's rights, child custody, child abduction and childcare which the Committee on Petitions has received over the years from various EU Member States, and to the recommendations made in the reports on fact-finding visits to Germany (23-24 November 2011)(Jugendamt), Denmark (20-21 June 2013)(social services) and the United Kingdom (5-6 November 2015)(non-consensual adoptions),
- having regard to the role and activities of the European Parliament Mediator for International Parental Child Abduction,

¹ OJ L 338, 23.12.2003, p. 1.

- having regard to Rule 216(2) of its Rules of Procedure,
- A. whereas the best interests of the child must be paramount in all decisions related to childcare issues at all levels;
- B. whereas the EU may adopt measures concerning family law with cross-border implications (Article 81(3) TFEU), including in the field of adoption;
- C. whereas increased mobility within the EU has led to increasing numbers of cross-border child protection issues involving custody removal;
- D. whereas child-custody-related issues have a significant impact on the life of every individual involved and on society as a whole, and whereas the Brussels IIa Regulation is not free of loopholes, and the upcoming revision thereof is a good opportunity to enhance its provisions;
- E. whereas the exercise of a fundamental right such as freedom of movement and residence should not entail a higher threat to the child's right to family life;
- F. whereas children whose parents are exercising their right to free movement have the right to maintain on a regular basis a personal relationship and direct contact with their parents unless this is contrary to the interests of the child, in accordance with Article 24 of the Charter of Fundamental Rights;
- 1. Recalls that the large number of petitions received on child-related cases indicates that there is a major problem with the implementation of the Brussels IIa Regulation;
- 2. Considers that all child protection systems should have transnational and cross-border mechanisms in place which take into account the specificities of cross-border conflicts;

Child protection and judicial cooperation within the EU

- 3. Calls on the Member States to put in place monitoring and evaluation systems (with relevant socioeconomic and nationality-disaggregated statistics) within a national coordinating framework on cross-border cases involving children; recommends that the Commission coordinate the transfer of information among the relevant Member State authorities;
- 4. Calls on the Council to report on the specific actions being implemented by the Member States with a view to bringing about synergies between the 28 national child protection systems;
- 5. Calls for a clear definition of 'habitual residence' in the revised Brussels IIa Regulation;
- 6. Stresses the obligation of national authorities, set out in the Brussels IIa Regulation, to recognise and enforce judgments delivered in another Member State in child-related cases; calls on the Member States to increase and improve the cooperation of their judiciaries in cases involving a child;
- 7. Calls on the Commission and the Member States to co-finance and promote the establishment of a platform providing assistance to non-national EU citizens in family

proceedings and of a single European helpline for cases of child abduction or abuse, as well as counselling concerning care and adoption proceedings;

8. Calls on the Commission to provide a clear and easily accessible guide with practical information for EU citizens on the institutional arrangements on child protection, with a particular focus on adoption or placement without parental consent and on parents' rights in different Member States;

Role of social services in child protection

9. Calls on the Member States to take a preventive approach and to ensure appropriate and well-resourced policies to avoid launching care proceedings where possible, by introducing early-warning procedures and monitoring mechanisms and providing adequate support to families as primary caregivers, particularly within vulnerable communities where social exclusion is a risk;
10. Stresses that proper assessment of individual cases in family-related issues should not be hindered by budgetary cuts as a result of austerity measures, in particular where the quality of social services is concerned;
11. Calls on the Commission and the Member States to provide for specialised training and education for social workers and all other professionals dealing with cross-border cases involving a child;
12. Calls on the relevant authorities of a Member State that intends to send social workers to investigate a case for adoption or placement in another Member State to inform the authorities of that Member State that such an investigation will be conducted;

Childcare-related judicial proceedings

13. Invites the Member States to designate specialised chambers within family courts or cross-border mediation bodies to deal with cross-border child-related cases; stresses that proper monitoring of the post-judgment situation is pivotal, including when contact with parents is involved;
14. Calls on the Member States to systematically implement the provisions of the Vienna Convention of 1963, and to ensure that embassies or consular representations are informed from the start of all childcare proceedings involving their nationals and that they have full access to the relevant documents; suggests that consular authorities should be allowed to attend every stage of the proceedings;
15. Calls on the Member States to guarantee regular visitation rights to parents, except where this could be detrimental to the best interests of the child, and to allow parents to use their mother tongue with their children during the visits;
16. Recommends that the Member States provide parents, from the outset and at every stage of child-related proceedings, with complete and clear information on the proceedings and on the possible consequences thereof; calls on them to inform parents about the rules on legal support and aid, for example by providing them with a list of bilingual specialised lawyers and by offering interpretation facilities, so as to avoid cases where

parents give their consent without fully understanding the implications of their commitments; recommends also that adequate support be provided to parents with literacy difficulties;

17. Recommends establishing minimum standards for the hearing of a child in national civil proceedings, in accordance with Article 24 of the Charter of Fundamental Rights;
18. Recommends separate hearings of parents and children before a judge, an expert or a social worker, in order to avoid children being influenced or falling victim to conflicts of loyalty;
19. Recommends that thresholds for the duration of each stage in cross-border childcare proceedings be set, so that members of the child's extended family have sufficient time to come forward and apply to adopt the child, or parents can address their problems and propose sustainable alternatives before the final decision on adoption is taken; considers that before any permanent solution, such as adoption, is determined, a proper re-evaluation of the situation of the biological family must be undertaken;
20. Calls on the Member States to give parents suffering from alcohol or drug addiction reasonable time to have a real opportunity to recover before the court takes a final decision on adoption of their child;
21. Calls on the Commission to pay particular attention to the recommendations received on cross-border mediation by all relevant stakeholders at national and European level;

Child placement and adoption

22. States that there is no mechanism within the EU providing for automatic recognition of domestic adoption orders issued in other Member States; calls on the Member States and the Commission to regulate on recognition of domestic adoption, taking into account the best interests of the child and with due respect for the principle of non-discrimination;
23. Calls on the Member States to encourage non-contracting states to join the 1993 Hague Convention, which would guarantee that all children benefit from the same standards and would help to avoid a parallel system with fewer safeguards; calls on the Member States to avoid heavy bureaucracy in processing the recognition of international adoptions already recognised in another Member State;
24. Emphasises the importance of offering children in any kind of fostering or adoption arrangement the placement that offers the best opportunities to maintain links with the child's cultural background and to learn and use their mother tongue; asks the Member State authorities involved in childcare proceedings to make all possible efforts to avoid separating siblings;
25. Calls on the Member States to give particular attention and support to parents, and particularly women, who have been victims of domestic violence, either as children or adults, in order to avoid their being victimised again by the automatic removal of custody of their children;

Cross-border parental child abduction

26. Calls on the Commission to publicise the results achieved in the promotion of cross-border cooperation in child abduction cases, which it declared to be a priority in the EU Agenda for the Rights of the Child;
27. Calls on the Council to report on the results achieved in establishing child abduction alert systems with cross-border implications, and to conclude the relevant cooperation agreements dealing with cross-border abduction cases on the basis of the Commission guidelines;
28. Instructs its President to forward this resolution to the Council, the Commission and the governments and the parliaments of the Member States.