

The 1980 Hague Convention

The main differences and the added
value of the Brussels IIb Regulation
and the interplay with the
1996 Hague Convention



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Abstract

This study, commissioned by the European Parliament's Policy Department for Justice, Civil Liberties and Institutional Affairs at the request of the Committee on Legal Affairs (JURI), examines the added value that the Brussels IIb Regulation and the 1996 Hague Convention bring to the 1980 Hague Convention. This enhanced framework enables 26 EU Member States to ensure the prompt return of abducted children while protecting their best interests, and its further improvement calls for continued joint efforts at both European and international level.

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LIST OF ABBREVIATIONS

ADR	Alternative dispute resolution
BRUSSELS IIB	Council Regulation (EU) 2019/1111 of 25 June 2019 on jurisdiction, the recognition and enforcement of decisions in matrimonial matters and the matters of parental responsibility, and on international child abduction (recast) (The Brussels II-ter Regulation) in force since 1 August 2022, replacing the Brussels Ila regulation.
CFREU	Charter of Fundamental Rights of the European Union
CJEU	Court of Justice of the European Union
ECHR	Convention for the Protection of Human Rights and Fundamental Freedoms
EJN-civil	European Judicial Network in civil and commercial matters
EU	European Union
HCCH	Hague Conference on Private International Law
HELP	Human Rights Education for Legal Professionals
IHNJ	International Hague Network of Judges
JURI	The European Parliament Committee on Legal Affairs
TFEU	Treaty on the Functioning of the European Union
THE 1980 HAGUE CONVENTION	Convention of 25 October 1980 on the Civil Aspects of International Child Abduction
THE 1996 HAGUE CONVENTION	The Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-Operation in Respect of Parental Responsibility and Measures for the Protection of Children
UNCRC	United Nations Convention on the Rights of the Child of 1989

EXECUTIVE SUMMARY

Background

International child abduction arises when a child is wrongfully removed from, or retained outside, the State of his or her habitual residence.

The main international instrument ensuring the child's prompt return is the 1980 Hague Convention, which binds 103 States. Within the EU, its operation is further clarified and strengthened by the Brussels IIb Regulation, applicable among 26 Member States, with the exception of Denmark. In parallel, 58 States apply the 1996 Hague Convention, which also reinforces the functioning of the 1980 Hague Convention.

As a result, the level of protection in international child abduction cases varies significantly across Europe and globally.

Aim – chapter 1

This analysis examines how the 1980 Hague Convention interacts with the Brussels IIb Regulation and the 1996 Hague Convention. It identifies the added value of this combined framework and considers ways in which it could be further improved.

1980 Hague Convention and Brussels IIb Regulation: Main Differences and Added Value – Chapter 2

The added value of the Brussels IIb Regulation emerges in two distinct areas: provisions in Chapter III of the Regulation that directly address child abduction and additional provisions that indirectly support and reinforce the objectives of the 1980 Hague Convention.

Special Provisions on International Child Abduction in the Brussels IIb Regulation – Subchapter 2.1.

Seven areas that support the operation of the 1980 Hague Convention can be identified.

1. The right of the child to express his or her views

The most significant added value of the Brussels IIb Regulation is its approach to hearing the child: unlike the 1980 Hague Convention, which considers the child's views only as a refusal ground, the Regulation introduces uniform EU standards for hearing the child in parental responsibility matters and in abduction cases.

The court must provide every child, regardless of age, who is capable of forming his or her own views with a genuine and effective opportunity to express those views and to give them due weight, in accordance with the child's age and maturity, fully in line with Article 12 of the UNCRC and Article 24(1) of the CFREU.

All qualitative aspects – who hears the child, where, and how – remain governed by the *lex fori*.

The Regulation makes compliance with these standards an autonomous ground for refusing recognition and enforcement of decisions, authentic instruments, and agreements.

Taken together, these developments significantly broaden the EU's commitment to child-friendly justice.

2. Speedier return proceedings

The Brussels IIb Regulation introduces rules to expedite the return procedure, as delays can cause irreversible harm to the child. While the 1980 Hague Convention contains only a general requirement of expedition, the Brussels IIb Regulation goes further by setting four explicit time limits (for the Central Authority, the first instance, the appeal, and the enforcement), with six-week deadlines in the last three stages and extensions allowed only in exceptional cases.

It also encourages Member States to concentrate jurisdiction and limit appeals, and expressly provides for the provisional enforcement of return orders.

3. Strengthening amicable solutions

While the 1980 Hague Convention tasks Central Authorities with facilitating amicable solutions, the Brussels IIb Regulation goes further by requiring courts to invite parties to mediation or other ADR.

It also allows the parties to confer jurisdiction on the court of the Member State of refuge to decide not only on the return but also on custody, enabling a more efficient resolution of the entire family situation in one forum.

4. Strengthening the rights of the person seeking the return

The Brussels IIb Regulation strengthens child protection by safeguarding the rights of the left-behind parent. That parent must be heard, must have guaranteed contact with the child during the return proceedings, and must, in response to grave-risk allegations, be given the opportunity to demonstrate that adequate arrangements exist in the State of return, mitigating any alleged danger.

5. Fine-tuning of the proceedings in cases of a return order

The Brussels IIb Regulation strengthens return proceedings by clarifying that a return order does not address parental responsibility and must not lead courts into custody matters. It ensures automatic EU-wide recognition and enforcement, applicable in cases of re-abduction. It also introduces a standardised certificate for swift enforcement and allows protective measures imposed in the Member State of refuge to 'travel' with the child and continue to protect him or her after the return to the Member State of origin.

6. The overriding mechanism

The Brussels IIb Regulation introduces a distinctive feature: the overriding mechanism. When a return is refused on specific grounds, it allows the court in the Member State of the child's habitual residence prior to the abduction to decide on parental responsibility and ultimately have the "final say" on the child's situation.

The resulting decision overrides the refusal and benefits from a privileged regime of recognition and enforcement. However, enforcement is not absolute: recognition may still be refused on several grounds.

7. Enhanced judicial cooperation

A key innovation in the Brussels IIb Regulation is the introduction of direct judicial communication between courts, adding significant value to the system. This complements the cooperation mechanisms of the 1980 Hague Convention, based on Central Authorities and the IHNJ and operates alongside the broader EU structure of the EJN-civil network.

Additional preventive and return-facilitating measures – Sub-chapter 2.2.

These groups of rules help prevent abductions and also offer alternative ways to secure a return when an abduction occurs. The Regulation preserves the jurisdiction of the child's habitual residence, preventing the abducting parent from gaining an advantage. The CJEU has further clarified that, in exceptional circumstances, this jurisdiction may be transferred to the State of refuge in the child's best interests. A return can also be achieved through recognition and enforcement of custody decisions and authentic instruments or agreements, all of which now benefit from simplified circulation rules without exequatur.

1980 Child Abduction Convention and 1996 Child Protection Convention – Chapter 3

In abduction cases between an EU Member State and any of the 32 non-Regulation States, the 1980 Convention is instead supplemented by the supporting rules of the 1996 Hague Convention. These rules address several key issues: the preservation of jurisdiction, the possibility of issuing contact or protective measures with cross-border effect (as developed through interpretation), enhanced cooperation and communication between Central Authorities, and an alternative route to securing the child's return through the general system of recognition and enforcement.

There are no supplementary rules applicable in relation to the other 45 Contracting States to the 1980 Convention, and there is no regime comparable to the Convention in the remaining 90 States worldwide.

Recommendations – Chapter 4

Based on the comparative assessment, the following recommendations are proposed to the European Union:

- **Broader adherence:** Encourage more States to become parties to the 1980 and 1996 Hague Conventions and support their effective implementation to strengthen global protection.
- **Child-friendly standards:** Further develop and promote child-friendly procedural standards, building on the new EU framework and the latest Council of Europe recommendations.
- **Mediation:** Promote mediation and improve the cross-border enforcement of mediation agreements.
- **Direct judicial communication:** Provide clear guidance on secure, transparent, and structured direct communication between courts.
- **Judicial specialisation:** Reinforce the EJN-civil and encourage Member States to designate specialised judges or liaison magistrates for child abduction cases.
- **Judicial training:** Strengthen training on protective measures, direct communication, and coordination with Central Authorities and networks.
- **Online database:** Create a comprehensive database on national child-protection laws, measures, and authorities to support consistent cross-border practice.
- **Empirical monitoring:** Collect regular statistical data on international child abduction within the EU to identify systemic challenges and to guide improvements.
- **Training for all child-related actors:** Offer targeted training for lawyers, authorities, social workers, and others, for example the free HELP courses or a dedicated EU-level training body for attorneys similar to EJTN.

1. INTRODUCTION

KEY FINDINGS

International child abduction is primarily governed by the 1980 Hague Convention, which provides the mechanism for the prompt return of the child.

Within the EU, the Brussels IIb Regulation strengthens and clarifies the application of the 1980 Convention among 26 Member States, with the exception of Denmark.

The 1996 Hague Convention also plays a key complementary role and has influenced the development of the Brussels II instruments.

The three instruments have different scopes, and the applicable rules in any given case depend on the combination of States involved and their treaty participation.

Thus, the level of protection in international child abduction cases varies significantly worldwide, and it is most extensive under EU law.

Despite ongoing improvements in this area, including the Hague Conference's Guides to Good Practice, challenges remain in ensuring consistent application.

This analysis, while acknowledging the European Parliament's ongoing efforts, examines the interaction of these instruments and identifies ways to improve their practical operation.

International child abduction refers to situations involving either the wrongful removal or the wrongful retention of a child from the State of his or her habitual residence to another State. The abductor may be any person but is often one of the child's parents.¹ International child abduction is more common than generally assumed. In 2024, a total of 1,946 return applications were recorded globally, 1,021 of which (52.47%) were received by EU Member States.² Cross-border parental child abductions are governed by the 1980 Hague Convention on the Civil Aspects of International Child Abduction ('the 1980 Hague Convention')³, which establishes a system of co-operation among its 103 Contracting States⁴ and return proceedings for contracting parties are outlined. The aim of the Convention is to protect children across international borders from the harmful effects of their wrongful removal or retention by ensuring their prompt return to the State of their habitual residence.⁵

In the European Union, however, where all Member States are Contracting Parties to the 1980 Hague Convention, additional rules have been adopted as Member States wish to strengthen their integration

¹ Lowe, N. and Stephens, V. Global Report – Statistical study of applications made in 2021 under the 1980 Child Abduction Convention. Prel. Doc. No 19A of October 2023 [Global Report – Statistical study of applications made in 2021 under the 1980 Child Abduction Convention](#) (hereafter Global Report of 2023).

² Statistics on selected HCCH Conventions: Report of 2025 produced by the Permanent Bureau of HCCH, <https://assets.hcch.net/docs/6ad602a0-dd4c-451a-9ccd-a27353c68828.pdf>

³ Convention of 25 October 1980 on the Civil Aspects of International Child Abduction [HCCH | #28 - Full text](#)

⁴ Status table <https://www.hcch.net/en/instruments/conventions/status-table/?cid=24> last accessed 5.12.2025

⁵ Pérez-Vera, E. P., Explanatory Report on the 1980 HCCH Child Abduction Convention (hereafter the Perez-Vera Report), para. 16, <https://assets.hcch.net/docs/a5fb103c-2ceb-4d17-87e3-a7528a0d368c.pdf>

and cooperation. The legal basis for this is Article 81(3) of the Treaty on the Functioning of the European Union ('TFEU'), which requires the act to be adopted in accordance with the special legislative procedure, whereby the Council acts unanimously after consulting the European Parliament. At present, these rules are set out in Council Regulation (EU) 2019/1111 of 25 June 2019 on jurisdiction, the recognition and enforcement of decisions in matrimonial matters and matters of parental responsibility, and on international child abduction (recast) ('the Brussels IIb Regulation').⁶ Since 1 August 2022, it applies in all EU Member States with the exception of Denmark and has replaced the Brussels IIa Regulation, which is no longer in force.⁷ The Brussels IIa Regulation was preceded by the Brussels II Regulation⁸, which had been developed based on the draft Convention on jurisdiction and the recognition and enforcement of judgments in matrimonial matters.⁹

The relationship between the 1980 Hague Convention and the Brussels IIb Regulation has never been straightforward. At the time of the adoption of the Brussels IIa Regulation, questions were already being asked as to whether this relationship would be a "symbiotic relationship" or a "forced partnership".¹⁰ The Brussels IIb Regulation provides a detailed clarification of its relationship with the 1980 Hague Convention, both in its operative provisions and in the recitals. Nevertheless, child abduction within the EU is still considered one of the most complex legal issues in the field of judicial cooperation in terms of civil matters with cross-border implications.¹¹

The complexity arises from the fact that, alongside the 1980 Hague Convention and the Brussels IIb Regulation, there are other European and international instruments governing specific aspects of international child abduction and, more broadly, the protection of the child and the right to private and family life. These include, *inter alia* the 1996 Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children ('the 1996 Hague Convention')¹², the United Nations Convention on the Rights of the Child ('UNCRC')¹³, the European Convention on Human Rights ('ECHR')¹⁴, and the Charter of Fundamental Rights of the European Union ('CFREU').¹⁵ The 1996 Hague Convention is applicable among 58 Contracting States and warrants special attention, as it provided the conceptual inspiration for the Brussels II, Brussels IIa Regulation and, more recently, the Brussels IIb Regulation.¹⁶

To clarify the exact relationship between the 1980 Hague Convention, the Brussels IIb Regulation, and the 1996 Hague Convention, it is important to note that these three instruments each have a different scope of application.

⁶ OJ L 178, 2.7.2019, often also referred to as the 'Brussels II ter Regulation'.

⁷ 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, OJ L 338 of 23.12.2003.

⁸ Council Regulation (EC) No 1347/2000 of 29 May 2000 on jurisdiction and the recognition and enforcement of judgments in matrimonial matters and in matters of parental responsibility for children of both spouses, OJ L 160, 30.6.2000, p. 19.

⁹ OJ C 221 of 16.07.1998 accompanied with an explanatory report prepared by Professor Alegria Borrás (OJ C 221, 16.7.1998, p. 27).

¹⁰ McEleavy, P. The New Child Abduction Regime in the European Community, *Journal of Private International Law*, 2005/5, p. 33 et seq.

¹¹ Martiny, D. New efforts in judicial cooperation in European child abduction cases, *Polski Proces Cywilny* 4/2021, p. 501.

¹² <https://assets.hcch.net/docs/f16ebd3d-f398-4891-bf47-110866e171d4.pdf>

¹³ <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>

¹⁴ https://www.echr.coe.int/documents/d/echr/convention_ENG

¹⁵ <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:12012P/TXT>

¹⁶ Van Loon, H. Brussels IIa: Towards a Review, in: *Cross-border activities in the EU Making life easier for citizens*, European Parliament, Policy Department C – Citizens' Rights and Constitutional Affairs, 2015, p. 181-182.

The special procedure for the prompt return of an abducted child to the State of his or her habitual residence is provided for in the 1980 Hague Convention.

The Brussels IIb Regulation upholds the application of the 1980 Hague Convention in cases of wrongful removal or retention of a child from one EU Member State to another. In doing so, the Regulation complements and clarifies the 1980 Hague Convention.¹⁷ Both instruments – the 1980 Hague Convention and the Regulation – establish an interlinked set of rules aimed at ensuring the prompt return of the child to the Member State of his or her habitual residence.¹⁸

Like the Regulation, the 1996 Hague Convention supplements and strengthens the 1980 Hague Convention in certain respects without amending or substituting the mechanism established by the 1980 Hague Convention for dealing with situations of international child abduction.¹⁹

It should be underlined that all EU Member States are Contracting Parties to both the 1980 and the 1996 Hague Conventions,²⁰ and that currently every Contracting Party to the 1996 Hague Convention is also a Contracting Party to the 1980 Hague Convention.²¹

The dividing line between the three instruments depends on the States involved in any given case of international child abduction. If the abduction concerns only the 26 EU Member States participating in the Regulation the 1980 Hague Convention applies as complemented by certain provisions of the Brussels IIb Regulation.²² If the abduction takes place between an EU Member State and a non-EU State that is a Contracting Party to the 1980 Hague Convention, then the 1980 Hague Convention applies, complemented as relevant by the 1996 Hague Convention. At present, this scenario concerns all EU Member States including Denmark, and the 31 non-EU Contracting States. Abductions between EU Member States and a further 45 non-EU States who have ratified the 1980 Hague Convention but not the 1996 Hague Convention, are governed solely by the 1980 Hague Convention, without any harmonised supplementary rules. If the abduction concerns an EU Member State and a State that is not a Contracting Party to the 1980 Hague Convention, the national law of that State applies, including any applicable bilateral treaties, along with the legal framework for the provision of diplomatic or consular assistance²³. Based on United Nations' recognition, this currently amounts to 90 States.²⁴

It is important to note that, beyond the Brussels IIa Regulation and the 1996 Hague Convention, the 1980 Hague Convention itself has evolved over the years through the authoritative, though non-

¹⁷ See CJEU Opinion of 14 October 2014 in Case C-1/13, ECLI:EU:C:2014:2303.

¹⁸ Musseva, B. Practice Guide for the application of the Brussels IIb Regulation, European Union, 2022 (hereafter Brussels IIb Regulation Practice Guide) p. 191, available at <https://op.europa.eu/bg/publication-detail/-/publication/ff34bda5-ea90-11ed-a05c-01aa75ed71a1/language-en>

¹⁹ Practical Handbook on the operation of the Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children, p. 139p <https://assets.hcch.net/docs/eca03d40-29c6-4cc4-ae52-edad337b6b86.pdf>

²⁰ <https://www.hcch.net/en/instruments/conventions/status-table/?cid=24>

²¹ <https://www.hcch.net/en/instruments/conventions/status-table/?cid=70> and <https://www.hcch.net/en/instruments/conventions/status-table/?cid=24>

²² See Articles 1(3), 22 of Brussels IIb Regulation in relation to Articles 2 and 36 of the Hague Convention.

²³ Freeman, M. 2024 Parental child Abduction to Third Countries, Study for the Committee on Legal Affairs of the European Parliament, Study for the Committee on Legal Affairs of the European Parliament, p. 38 et seq. [Parental Child Abductions to Third Countries | Think Tank | European Parliament](#)

²⁴ <https://www.un.org/en/about-us/member-states>

binding, interpretative guidance provided by the Hague Conference on Private International Law ('HCCH') in the form of the so-called Guides to Good Practice.

The above demonstrates that, in cases of international child abduction, the parties involved and the competent authorities are confronted with a highly complex system of legal instruments, which requires intricate navigation and may in turn create legal uncertainty.

The present analysis focuses on the relationship and interaction of the 1980 Hague Convention, on the one hand, with the Brussels IIb Regulation, and, on the other hand, with the 1996 Hague Convention. Its aim is to highlight the added value of this complex framework and to reflect on possible ways to improve the existing rules and their application, while taking into account the balance of interests involved, namely, the best interests of the child, the right to private and family life, and the interests of the States concerned. Cases of international child abduction often attract considerable public attention and may even acquire a political dimension. From the perspective of EU law, the development of the legal framework is also equally shaped by free movement, mutual trust between Member States, and the protection of fundamental rights, especially the rights of the child, under Articles 7 and 24 of the CFREU.

This research is situated within the European Parliament's ongoing efforts to keep the 1980 Hague Convention high on the policy agenda, to raise awareness of its legal and social dimensions, and to identify ways to improve its functioning. These efforts are evidenced, *inter alia*, by the Study on Cross-border Parental Child Abduction in the EU of 2015²⁵, the Study on Parental Child Abductions to Third Countries²⁶, and the in-depth analysis "40 years of the Hague Convention on Child Abduction: Legal and Societal Changes in the Rights of the Child"²⁷ and "The Child Perspective in the Context of the 1980 Hague Convention".²⁸

Chapter One is devoted to the 1980 Hague Convention and the Brussels IIb Regulation, Chapter Two to the 1980 Hague Convention and the 1996 Hague Convention, and Chapter Three sets out the main recommendations.

²⁵Swiss Institute of Comparative Law, Cross-border parental child abduction in the European Union, Study for the Committee on Legal Affairs, 2015, [Cross-border parental child abduction in the European Union](#)

²⁶ Freeman, M. op. cit., [https://www.europarl.europa.eu/thinktank/en/document/IPOL_STU\(2024\)759359](https://www.europarl.europa.eu/thinktank/en/document/IPOL_STU(2024)759359)

²⁷De Ruiter, A. 2020 *40 years of the Hague Convention on child abduction: legal and societal changes in the rights of a child*, Study for the Committee on Legal Affairs of the European Parliament, [40 years of the Hague Convention on child abduction: legal and societal changes in the rights of a child](#)

²⁸ Freeman, M. 2020 *The child perspective in the context of the 1980 Hague Convention*, Study for the Committee on Legal Affairs of the European Parliament, [THE CHILD PERSPECTIVE IN THE CONTEXT OF THE 1980 HAGUE CONVENTION](#)

2. 1980 HAGUE CONVENTION AND BRUSSELS IIB REGULATION: MAIN DIFFERENCES AND ADDED VALUE

KEY FINDINGS

The provisions of Brussels IIb Regulation that clarify and complement the 1980 Hague Convention are to be found almost in their entirety in a separate chapter – Chapter III: International Child Abduction (Articles 22-29). The most significant features that enhance the application of the 1980 Hague Convention concern, in particular:

- the right of the child to express his or her views;
- measures to expedite the proceedings;
- the strengthening of amicable dispute resolution;
- the strengthening of the rights of person seeking the return;
- fine-tuning of the proceedings in cases of return order
- the overriding mechanism; and
- enhanced judicial cooperation.

The Brussels IIb Regulation includes provisions on jurisdiction and the cross-border circulation of decisions, authentic instruments, and agreements on parental responsibility. These additional rules can have a preventive effect against potential abductions, limit forum shopping advantages arising from wrongful removals or retentions, and offer alternative legal avenues to achieve the child's return to the State of his or her habitual residence prior to the abduction.

As noted previously, the 1980 Hague Convention has been ratified by all the Member States of the European Union and continues to govern cases of child abduction from one Member State to another. However, with the exception of Denmark, its application is complemented by specific provisions of the Brussels IIb Regulation, which apply in such situations. It is precisely these supplementary provisions that constitute the main differences between the 1980 Hague Convention and the Brussels IIb Regulation.

In addition, further elements laid down in the Brussels IIb Regulation may be highlighted, which, on the one hand, seek to discourage parents from resorting to child abduction and, on the other, offer alternative avenues to those offered under the 1980 Hague Convention for securing the prompt return of the child to the State of his or her habitual residence prior to the abduction.

The repealed Brussels IIa Regulation also contained supplementary rules aimed at enhancing the effective application of the 1980 Hague Convention, set out in Art. 11. After ten years of its application, the European Commission assessed the practical effects of the Brussels IIa Regulation in 2014 and two years later presented the Proposal for a Council Regulation on jurisdiction, the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, and on international child abduction (recast) of 30 June 2016.²⁹ In identifying the shortcomings of the Brussels IIa Regulation, the European Commission prioritised the need to reform the international child

²⁹ COM (2016), 411, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:52016PC0411>

abduction mechanism.³⁰ The principal concern was that, in practice, the existing system could not always ensure the immediate return of the child.

Indeed, according to the detailed statistics on the operation of the 1980 Hague Convention carried out in 2023 for the Eighth Special Commission on the Practical Operation of the 1980 Convention and the 1996 Child Protection Convention and evaluating applications made in 2021, the average duration from the receipt of a return application by the Central Authority to the final outcome between EU Member States was 192 days.³¹ By comparison, the global average stood at 207 days, indicating that proceedings within the EU are only marginally faster.³²

In addition, the European Commission has identified the significant divergence of rules governing the hearing of the child among the Member States as a shortcoming, which may result in decisions not sufficiently taking the best interests of the child into account.³³

As a response to these findings, the Brussels IIb Regulation introduces several improvements which complement the 1980 Hague Convention, with the aim of enhancing its practical application in cases of international child abduction between Member States. Indirectly, they also influence the procedures applied in Member States in cases of abductions from countries where the Brussels IIb Regulation does not apply.

The main differences, in comparison with the 1980 Hague Convention, are presented below, taking their corresponding added value into account. Broadly, they are divided into two groups: those contained in the separate Chapter III 'International Child Abduction' of the Brussels IIb Regulation (Sub-chapter 1) and those which, without explicitly building on the 1980 Hague Convention, support the achievement of its objectives (Sub-chapter 2).

2.1. Special Provisions on International Child Abduction in the Brussels IIb Regulation

The provisions of Brussels IIb Regulation that clarify and complement the 1980 Hague Convention are to be found almost entirely in a separate chapter – Chapter III: International Child Abduction (Articles 22–29). For comparison, the repealed Brussels IIa Regulation contained only one provision in this regard – Article 11. This structural change, together with the explicit reference to child abduction in the title of the Regulation, highlights the great importance that the topic holds for the EU legislator.³⁴

³⁰ COM (2016) 411, p.3.

³¹ Lowe, N. and Stephens, V. Regional Report – Statistical study of applications made in 2021 under the 1980 Child Abduction Convention. Prel. Doc. No 19B of October 202 [Regional Report – Statistical study of applications made in 2021 under the 1980 Child Abduction Convention](#)

³² Lowe, N. and Stephens, V. Global Report – Statistical study of applications made in 2021 under the 1980 Child Abduction Convention. Prel. Doc. No 19A of October 2023 [Global Report – Statistical study of applications made in 2021 under the 1980 Child Abduction Convention](#)

³³ COM (2016) 411, p.4.

³⁴ Luszkat, L. The Brussels IIb Regulation – Most significant changes compared to its predecessor and enhancement of the 1980 Hague Convention on International Child Abduction, *Journal of Private International Law*, 2024, p. 145.

All of the provisions in this chapter build, to some extent, on the rules of the 1980 Hague Convention. In some cases, they provide further clarifications, while in others, they enhance the framework with specific amendments.

The most significant features of the Brussels IIb Regulation that enhance the application of the 1980 Hague Convention concern, in particular: the hearing of the child; measures to speed up the proceedings; the strengthening of amicable dispute resolution; the strengthening of the rights of the person seeking the return; the fine-tuning of procedural rules in cases where a return order is issued; the overriding mechanism; and enhanced judicial cooperation.

2.1.1. The right of the child to express his or her views

One of the most significant differences between the 1980 Hague Convention and the Brussels IIb Regulation concerns the right of the child to express his or her views. Under the 1980 Hague Convention, this right is applicable only as a ground for refusing the return, and no harmonised standards for the hearing of the child are provided for. However, the Brussels IIb Regulation establishes explicit autonomous standards applicable to all proceedings for the first time, including return proceedings under the 1980 Hague Convention, which reflect Article 12 of the UNCRC and Article 24 of the CFREU.

The 1980 Hague Convention was adopted at a time that preceded the development of the international legal framework recognising children's rights, and in particular the child's right to express his or her views.³⁵ Nevertheless, the child's views were given relevance as a possible ground for refusing the return.³⁶ Pursuant to Article 13(2) of the 1980 Hague Convention the judicial or administrative authority in the State of refuge may refuse to order the return of the child if it finds that the child objects to being returned and has attained an age and degree of maturity at which it is appropriate to take account of his or her views. Therefore, the Convention gives children the possibility of expressing their own interests, leaving the application of this clause to the discretion of the competent authorities.³⁷

Ten years after the adoption of the 1980 Hague Convention, the child's right to express his or her own views was for the first time expressly enshrined in Article 12 of the UNCRC³⁸ of 1989, stating that:

'1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law'.

³⁵ 1980 Child Abduction Convention. Guide to Good Practice, Part V1, Article 13(1)(b) Hague Conference on Private International Law (2020), 86, [225b44d3-5c6b-4a14-8f5b-57cb370c497f.pdf](#) and Freeman, M. The child perspective in the context of the 1980 Hague Convention, 2020, p. 12.

³⁶ Kruger, Th, and Samyn, L. Brussels II bis: successes and suggested improvements, *Journal of Private International Law*, 2016, p. 157.

³⁷ The Perez-Vera Report, para 30. Some scholars argue that the general obligation to hear the child, while not explicitly stated, can be inferred implicitly from Article 13(2). See, in this respect Ubertazzi, B. Hearing of the Child, in Honorati, H. (ed.), *Jurisdiction in Matrimonial Matters, Parental Responsibility and International Abduction*, 2018, p. 171.

³⁸ [UNCRC 1989](#)

The United Nations Committee on the Rights of the Child monitors the implementation of the UNCRC, and issues General Comments, which provide authoritative interpretations of its provisions. General Comment Nr. 12³⁹ is dedicated to the child's right to be heard, while General Comment Nr. 14⁴⁰ elaborates on the right of the child to have his or her best interests taken as a primary consideration. Read together, they emphasise that children's rights must be fully integrated into all aspects of procedures affecting them – as a matter of right, principle, and procedure.

The child's right to express his or her views has been progressively recognised and safeguarded in the case law of the European Court of Human Rights⁴¹ under Article 6 ECHR (fair trial) and Article 8 of the ECHR (respect for family life).⁴² In addition, the Council of Europe Guidelines on Child-Friendly Justice affirm that the rights to access to justice and to a fair trial – including the right to be heard – apply equally to children, while taking due account of their capacity to form their own views.⁴³ This notion was further emphasised in the Council of Europe Recommendation on the participation of children and young people under the age of 18, which calls upon government to ensure that all children and young people can exercise their right to be heard, to be taken seriously, and to participate in decision making in all matters affecting them, their views being given due weight in accordance with their age and maturity.⁴⁴ The hearing of the child also occupies a prominent place in the Council of Europe Strategy for the Rights of the Child (2022–2027), which includes the strategic objectives '2.4. Child-friendly justice for all children' and '2.5. Giving a voice to every child'.⁴⁵ The most recent development from the Council of Europe in this field is contained in two Recommendations on the protection of the rights and best interests of the child in parental separation proceedings and in care proceedings. These set out a wide range of child-friendly procedural standards and mechanisms relating, *inter alia* to the hearing of the child and the conduct of the proceedings.⁴⁶

At the EU level, the provision of an opportunity for the child to express his or her views is enshrined in Article 24(1) of the CFREU which states:

'Children may express their views freely. Such views shall be taken into consideration on matters which concern them in accordance with their age and maturity'.

The provisions of the CFREU apply to national authorities when they are implementing EU law.

³⁹ UN Committee on the Rights of the Child (CRC), General comment No. 12 (2009): The right of the child to be heard, 20 July 2009, CRC/C/GC/12, <https://www.refworld.org/docid/4ae562c52.html>

⁴⁰ UN Committee on the Rights of the Child (CRC), General comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1), 29 May 2013, CRC /C/GC/14, <https://www.refworld.org/docid/51a84b5e4.html>.

⁴¹ See, for example *NTS and Others v Georgia*, ECtHR Application no 71776/12, Judgment 2 February 2016, *Iglesias Casarubios and Cantalapiedra Iglesias v Spain*, ECtHR Application no. 23298/12, Judgment 11 October 2016.

⁴² https://www.echr.coe.int/documents/d/echr/convention_ENG

⁴³ Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice, adopted by the Committee of Ministers of the Council of Europe on 17 November 2010 and explanatory memorandum, <https://rm.coe.int/16804b2cf3>

⁴⁴ CM/Rec(2012)2 of 28 March 2012, [https://search.coe.int/cm/#{%22CoEIdentifier%22:\[%2209000016805cb0ca%22\],%22sort%22:\[%22CoEValidationDate%20Descending%22\]}](https://search.coe.int/cm/#{%22CoEIdentifier%22:[%2209000016805cb0ca%22],%22sort%22:[%22CoEValidationDate%20Descending%22]})

⁴⁵ <https://www.coe.int/en/web/children/strategy-for-the-rights-of-the-child>

⁴⁶ Recommendation CM/Rec(2025)4 of the Committee of Ministers to member States on the protection of the rights and best interests of the child in parental separation proceedings and Recommendation, [https://search.coe.int/cm/#{%22CoEIdentifier%22:\[%220900001680b60132%22\],%22sort%22:\[%22CoEValidationDate%20Descending%22\]}](https://search.coe.int/cm/#{%22CoEIdentifier%22:[%220900001680b60132%22],%22sort%22:[%22CoEValidationDate%20Descending%22]}) and CM/Rec(2025)5 of the Committee of Ministers to Member States on the protection of the rights and best interests of the child in care proceedings, adopted by the Committee of Ministers on 28 May 2025 at the 1529th meeting of the Ministers' Deputies, [https://search.coe.int/cm/#{%22CoEIdentifier%22:\[%220900001680b60136%22\],%22sort%22:\[%22CoEValidationDate%20Descending%22\]}](https://search.coe.int/cm/#{%22CoEIdentifier%22:[%220900001680b60136%22],%22sort%22:[%22CoEValidationDate%20Descending%22]})

In Recital 33, the repealed Brussels IIa Regulation recognised the fundamental rights and principles of the CFREU, in particular the obligation to ensure respect for the rights of the child as set out in Article 24 of the CFREU. This direct applicability was confirmed by the case law of the CJEU.⁴⁷ Most importantly, Article 11(2) of the Brussels IIa Regulation ensured that when applying Articles 12 and 13 of the 1980 Hague Convention, the child was given the opportunity to be heard during the proceedings unless that appeared inappropriate having regard to his or her age or degree of maturity.

A comparison between Article 13(2) of the 1980 Hague Convention and Article 11(2) of the repealed Brussels IIa Regulation shows that the EU provision had a broader scope, applying to all return proceedings and not merely as a ground for refusal where the child objects to return and 'has attained an age and degree of maturity at which it is appropriate to take account of his or her views'.⁴⁸ This improvement, however, was not considered sufficient, as it was seen to be infringing Article 12 of the UNCRC. Article 11(2) of the Brussels IIa Regulation allowed the judge to decline to hear the child on the basis of insufficient maturity. By contrast, when determining the weight to be attached to his or her views in the decision, Article 12 of the UNCRC requires that the child be heard and that the child's age and degree of maturity be taken into account at a later stage.⁴⁹

Against this normative background, the amendments introduced by the Brussels IIb Regulation concerning the child's right to express his or her views in return proceedings, as well as in all other proceedings relating to parental responsibility with cross-border implications, constitute a substantial improvement.⁵⁰

Article 21(1) and Article 26 of Brussels IIb Regulation introduce uniform rules obliging the courts of the Member States, when exercising jurisdiction in parental responsibility matters or when deciding on applications for return under the 1980 Hague Convention, to provide the child who is capable of forming his or her own views with a genuine and effective opportunity to express those views, in accordance with national laws and procedures. Where the court decides to hear the child, it is required to give due weight to the views of the child in accordance with his or her age and maturity, in particular when assessing the best interests of the child (see Article 21(2) and Recital 39). Thus, in line with Article 24(1) of the CFREU and Article 12 of the UNCRC⁵¹, the Brussels IIb Regulation harmonises three key aspects of the hearing of the child:

- the obligation to assess the child's capacity to form his or her own views regardless of their age;
- the requirement to provide the child with a genuine and effective opportunity to express those views; and
- the obligation to give due weight to the child's views in accordance with his or her age and maturity.

These obligations are considered 'unprecedented' in the sense that neither the 1996 Hague Convention nor the 1980 Hague Convention requires that a child capable of forming his or her own views be given

⁴⁷ Case C-400/10 PPU, *McB.*, Judgment of 5 October 2010, EU:C:2010:582, para. 60 and Case C-491/10 PPU, *Aguirre Zarraga*, Judgment of 22 December 2010, EU:C:2010:828, para. 60-61.

⁴⁸ Kruger, Th, and Samyn, L., *op.cit.*, p. 157.

⁴⁹ General Comment 12, p. 9 and Kruger, Th, and Samyn, L., *op.cit.*, p. 157.

⁵⁰ Carpaneto, L. Impact of the Best Interests of the Child on the Brussels II ter Regulation, in: *The impact of human rights and of the best interests of the child on EU free movement and migration law*, 2019, p. 280.

⁵¹ See Recital 39 of the Brussels IIb Regulation.

a genuine and effective opportunity to express those views freely in judicial and administrative proceedings.⁵²

Articles 21 and 26 of the Brussels IIb Regulation essentially introduce a (minimum) harmonisation of national procedural rules.⁵³ They, however, neither set a minimum age nor harmonise the method of hearing the child, leaving the questions of 'who' (the judge or an expert), 'how' (directly or through a representative), and 'where' (in the courtroom or elsewhere) to national law.⁵⁴ National law is also applicable to the provision of information to the child, pursuant to Article 13(1) of the UNCRC. Although the European Parliament proposed introducing extended minimum qualitative procedural standards for the hearing of the child, requiring child-friendly, pressure-free hearings before a judge or specially trained expert, without the parents present, and with the hearing recorded and made available to the parties, ultimately this proposal was not endorsed.⁵⁵

The Brussels IIb Regulation, in light of the case law of CJEU, requires the court of the Member State to take all measures which are appropriate for the arrangement of the hearing, having regard to the best interests of the child and the circumstances of each individual case. To be specific, the court should, in so far as possible and always taking into consideration the best interests of the child, use all means available to it under national law as well as the specific instruments of international judicial cooperation, including, when appropriate, those provided for by the Taking of Evidence Regulation⁵⁶ (see Recital 39 and CJEU in *Aguirre Zarraga*⁵⁷). In addition, where it is not possible to hear the child in person, and where the technical means are available, the court may consider holding a hearing through videoconference or by any other means of communication technology⁵⁸ unless, on account of the particular circumstances of the case, the use of such technology would not be appropriate for the fair conduct of the proceedings (see Recital 53). These clarifications are of particular importance for the courts, which need clear and practical guidance on the hearing of the child in a cross-border context. The complexity of procedures and the need to safeguard the rights of the child make such guidance indispensable.

While the hearing of the child is recognised as a right, it does not constitute an absolute obligation. The preamble to the Brussels IIb Regulation provides an example of a situation in which the hearing may be omitted – namely, where the parties have reached an agreement (see Recital 39). Also relevant in this regard are the grounds for refusal of recognition and enforcement, which include exceptions for proceedings relating solely to the property of the child or where serious grounds exist – these are to be established taking into account, in particular, the urgency of the situation (Article 39(2)).

Another novelty introduced by the Brussels IIb Regulation concerns the assessment of the hearing of the child in the context of the recognition and enforcement of decisions, authentic instruments, and agreements. This is especially significant in child abduction cases, as the Regulation expressly stipulates

⁵² Carpaneto, L., op. cit., p. 280.

⁵³ Lusznat, L., op.cit., 142–143, Schulz, A. Die Neufassung der Brüssel IIa-Verordnung, 2020, FamRZ, p. 1144.

⁵⁴ See Fundamental Rights Report 2020 of the European Union Fundamental Rights Agency (FRA), <https://fra.europa.eu/en/publication/2020/fundamental-rights-report-2020>

⁵⁵ European Parliament legislative resolution of 18 January 2018 on the proposal for a Council regulation on jurisdiction, the recognition and enforcement of decisions in matrimonial matters and matters of parental responsibility, and on international child abduction (recast) (COM(2016)0411 – C8-0322/2016 – 2016/0190(CNS)), [https://www.europarl.europa.eu/RegData/seance_pleniere/textes_adoptes/definitif/2018/01-18/0017/P8_TA\(2018\)0017_EN.pdf](https://www.europarl.europa.eu/RegData/seance_pleniere/textes_adoptes/definitif/2018/01-18/0017/P8_TA(2018)0017_EN.pdf)

⁵⁶ OJ L 405, 2.12.2020, pp. 1–39.

⁵⁷ Case C-491/10 PPU, *Aguirre Zarraga*, Judgment of 22 December 2010, EU:C:2010:828, para. 67.

⁵⁸ See, on this point also Regulation (EU) 2023/2844 of the European Parliament and of the Council of 13 December 2023 on the digitalisation of judicial cooperation and access to justice in cross-border civil, commercial and criminal matters, and amending certain acts in the field of judicial cooperation.

that a return order must be recognised and enforced in another Member State, including in situations of a subsequent abduction. Under the previous Brussels IIa Regulation, refusal of recognition was linked to a breach of the 'fundamental principles of procedure of the Member State in which recognition is sought' (Article 23(b)). The new framework, however, shifts the focus away from national procedural standards towards harmonised requirements, reflecting the common benchmarks established under the UNCRC and Article 24(1) of the CFREU.⁵⁹

This harmonised standard is operationalised through the conditions for refusing recognition and enforcement of a return order. Under Article 39(2), recognition of a decision ordering the return may be refused if it was given without providing a child capable of forming his or her own views with a genuine and effective opportunity to express his or her views, either directly or through a representative or an appropriate body. The court must explicitly indicate in the certificate (Annex IV, point 15) whether the child was capable of expressing his or her views and must also state whether such a genuine and effective opportunity was in fact provided (Annex IV, point 16).⁶⁰ These certification requirements thus give concrete effect to the harmonised child-participation standard that now governs recognition and enforcement across the EU.

The expanded rules on the hearing of the child represent a welcome reinforcement of children's rights through the establishment of autonomous standards that are fully aligned with the international legal framework on the protection of the rights of the child. By embedding these standards explicitly within the Brussels IIb Regulation, an important and necessary step has been taken towards greater convergence in child-friendly justice across the EU. This development should be regarded as part of a continuous process that requires sustained commitment at the national, EU and international levels to further strengthen these standards and to ensure their consistent and effective implementation in practice by national authorities and courts. More specifically, the autonomous standards developed at EU level may serve as a reference point for strengthening child participation and the consideration of the child's best interests in cross-border child abduction proceedings worldwide, *inter alia* in the framework of the 1980 Hague Convention.⁶¹

To build on this progress, child-friendly procedural standards should continue to be expanded. The EU-level standards, aligned with the guidance set out by the Council of Europe in their recommendations of 2025, may provide useful inspiration in this regard.

2.1.2. Speedier return proceedings

In cases of wrongful removal or retention, being returned to his or her State of habitual residence as expeditiously as possible is in principle considered to be in the best interests of the child, subject only to the limited exceptions set out in Articles 12, 13, and 20 of the 1980 Hague Convention.⁶² That is why

⁵⁹ Kruger, Th, and Samyn, L., *op.cit.*, p. 157.

⁶⁰ In cases of privileged decisions, the court is precluded from issuing the certificates under Annexes V and VI.

⁶¹ Freeman, M., *op.cit.*, p. 18.

⁶² Conclusions & Recommendations of October 2023 Eighth Meeting of the Special Commission (SC) on the practical operation of the Convention of 25 October 1980 on the Civil Aspects of International Child Abduction (1980 Child Abduction Convention) and the Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children (1996 Child Protection Convention), para. 14, available at <https://assets.hcch.net/docs/5b48f412-6979-4dc1-b4c1-782fe0d5cfa7.pdf>

this Convention was established with the primary aim of securing the prompt return of children (Article 1 (a)).

As the timing is a key issue, the Contracting States shall use the most expeditious procedures (Article 2(2)) and their judicial or administrative authorities shall act expeditiously (Article 11(1)). Nevertheless, the 1980 Hague Convention does not contain any mandatory time limit for the proceedings.⁶³ In Article 11(2) there is only an obligation for the State of refuge to provide a statement about the reasons for delay if a period of six weeks has been exceeded.

The repealed Brussels IIa Regulation failed to establish stricter rules for the swift handling of return applications. Article 11(3) largely mirrored the relevant provisions of the 1980 Hague Convention by requiring courts to use the most expeditious procedures available under national law. In addition, it introduced an obligation for courts to issue their decision no later than six weeks after the application is lodged, except where exceptional circumstances render this impossible. In practice, however, the six-week time limit proved difficult to comply with. It was not clear for judges or practitioners whether the six week deadline applied in each instance, or if it included appeals or even the enforcement of a return decision.⁶⁴ Additional reasons for delays included the absence of a time limit for Central Authorities to process applications, the lack of restrictions in national law on the number of possible appeals against a return order, and insufficient specialisation of courts in cross-border child abduction matters.⁶⁵

Consequently, as discussed earlier, the statistical data shows that return applications in 2021 were handled with extensive delays – the mean average duration was 207 days globally⁶⁶ and 192 days between EU Member States.⁶⁷ By comparison, in 2015 the average duration was 164 days globally⁶⁸ and 150 days in cases between EU Member States.⁶⁹

These substantial delays, which far exceeded the six-week deadline and demonstrated a clear upward trend, necessitated legislative intervention in order to safeguard the effectiveness of the return mechanism under the 1980 Hague Convention within the EU and to prevent the undermining of its main objective.

Accordingly, the Brussels IIb Regulation introduced a number of amendments that significantly strengthen the requirement for expeditious procedures.⁷⁰ These innovations, reaching beyond the general obligation of expeditiousness, include the introduction of time limits for Central Authorities, the courts, and enforcement; the possibility of granting provisional enforceability of return orders; the

⁶³ Pérez-Vera Report, para 105.

⁶⁴ COM (2016) 411, p. 3.

⁶⁵ COM (2016) 411, p. 3.

⁶⁶ Lowe. N. and Stephens, V. Global Report – Statistical study of applications made in 2021 under the 1980 Child Abduction Convention. Prel. Doc. No 19A of October 2023 [Global Report – Statistical study of applications made in 2021 under the 1980 Child Abduction Convention](#)

⁶⁷ Lowe. N. and Stephens, V. Regional Report – Statistical study of applications made in 2021 under the 1980 Child Abduction Convention. Prel. Doc. No 19B of October 202 [Regional Report – Statistical study of applications made in 2021 under the 1980 Child Abduction Convention](#)

⁶⁸ Lowe. N. and Stephens, V. Global Report – Statistical study of applications made in 2015 under the 1980 Child Abduction Convention of October 2017, <https://assets.hcch.net/docs/d0b285f1-5f59-41a6-ad83-8b5cf7a784ce.pdf>

⁶⁹ Lowe. N. and Stephens, V. Regional Report – Statistical study of applications made in 2015 under the 1980 Child Abduction Convention of October 2017, <https://assets.hcch.net/docs/8b567efb-31ff-46d4-8ef6-44c0ed65716f.pdf>

⁷⁰ Lortie, Ph. The Hague 1996 Child Protection and 1980 Child Abduction Conventions compared with the Brussels II ter Regulation, 2021, NIPR, states that 'The Brussels II ter has taken the issue of expeditious procedures to the next level', p. 694.

encouragement of Member States to concentrate jurisdiction in such cases and to limit the possibilities for appeal.

The time limit for Central Authorities requires them to acknowledge receipt of the application within five working days and, without undue delay, inform the requesting Member State or the applicant of the initial steps taken or to be taken, while retaining the right to request any further necessary documents (Article 23(2)). Although no specific deadline is set for transmitting the application to the court, these obligations impose concrete duties on the Central Authority that should help speed up the processing of the case.

The Brussels IIb Regulation introduced clearer time limits for courts of first and second instance examining return applications. Except where exceptional circumstances make this impossible, a court of first instance must give its decision no later than six weeks after it is seised (Article 24(2) of the Brussels IIb Regulation). Likewise, unless exceptional circumstances render it impossible, a court of higher instance shall give its decision no later than six weeks after all the required procedural steps have been taken and the court is in a position to examine the appeal (Article 24(3) of the Brussels IIb Regulation). The concept of exceptional circumstances is clarified in Recital 42 and in light of the case law of the CJEU, which contributes to its uniform and restrictive application.⁷¹

At the enforcement stage, the Brussels IIb Regulation reinforces the principle of expeditious action by allowing the party seeking enforcement or the Central Authority to request a statement of reasons for the delay if the return order has not been enforced within six weeks (Article 28(2)).

An important measure to speed up the return of the child is the introduction of a uniform rule allowing the court ordering the return to declare its decision provisionally enforceable, notwithstanding any appeal, where an immediate return before the decision on the appeal is required in the best interests of the child (Article 27(6)). This prevents the strategic use of possible appeals with the aim of delaying the return and ensures that the child's situation is stabilised without unnecessary prolongation of proceedings.

The final amendment aimed at expediting the return is the encouragement in Recitals 41 and 42 for Member States to ensure the concentration of jurisdiction and to limit the number of appeals to one, while leaving the concrete implementation of this requirement to their discretion. Although the Commission proposed the inclusion of explicit provisions to this effect in the operative part of the Regulation⁷², which would have been a more effective solution, the presence of these recitals makes the benefit of such arrangements sufficiently visible and, where there is political will at the national level, feasible to implement.

The innovations introduced by the Brussels IIb Regulation target the key issue of ensuring the swift handling of return applications in child abduction cases and the prompt enforcement of return orders. This matter is of paramount importance, as the case law of the ECtHR confirms that the passage of time may have irreparable consequences for the relationship between the child and the parent with

⁷¹ CJEU judgment of 7 November 2019 in Case C-555/18, K.H.K. (Account Preservation) ECLI:EU:C:2019:937 and CJEU order of 21 March 2013 in Case C-324/12, Novontech-Zala ECLI:EU:C:2013:205, para. 21.

⁷² COM (2016) 411, p.11.

whom he or she does not reside, and that a swift resolution is essential to minimise uncertainty and to protect the child's best interests in cases of unlawful removal or retention.⁷³

Although the primary responsibility for addressing these challenges lies with national justice systems, the need for faster and more efficient return proceedings remains a shared concern for the EU, HCCH and the Council of Europe. The ongoing efforts to establish common procedural standards – as reflected in Recommendation CM/Rec(2025)4 and the HCCH Guide to Good Practice (Part II – Implementing Measures)⁷⁴ – provide a constructive pathway towards greater coherence and, crucially, towards expediting child return proceedings while safeguarding children's rights.

2.1.3. Strengthening amicable solutions

Another means of achieving a swift resolution of return proceedings⁷⁵, reducing tension between the parties, and securing a durable and effective solution is the expansion of opportunities for reaching an amicable agreement.⁷⁶ In this regard, the Brussels IIb Regulation builds on the 1980 Hague Convention in two ways: by encouraging mediation and other alternative dispute resolution methods (Article 25) and by allowing the parties to choose the court which may rule on both the return application and the substance of parental responsibility (Article 9 in connection with Article 10).

The 1980 Hague Convention does not contain an explicit framework for amicable dispute resolution. Article 7(2)(c) merely obliges Central Authorities to take appropriate measures to secure the voluntary return of the child or to bring about an amicable resolution of the issues, without further detail or procedural guidance. This broadly formulated task was later developed by HCCH in its *Mediation: Guide to Good Practice under the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction* (2012).⁷⁷

In addition, the 1980 Hague Convention does not expressly allow for a single court to deal with the return application and the merits of custody simultaneously. Since a decision under the Convention concerning the return of the child 'shall not be taken to be a determination on the merits of any custody issue' (Article 19), the adjudication of the return application and the substantive parental responsibility matters cannot take place within the same procedure.

The repealed Brussels IIa Regulation, similar to the 1980 Hague Convention, addressed mediation and other alternative dispute resolution methods only as an obligation of Central Authorities (Article 55 (e)). The possibility of choosing a court to decide on the merits of parental responsibility together with the return application was likewise not regulated.

For the first time, the Brussels IIb Regulation shifts the focus from the Central Authorities to the courts, placing an explicit obligation on judges dealing with return applications to consider referring the parties to mediation. As early as possible and at any stage of the proceedings, they should invite the parties to

⁷³ See for example *Iosub Caras v Romania*, ECtHR Application no. 7198/04, Judgement 27 July 2006, *Deak v Romania and the UK*, ECtHR Application no. 19055/05.

⁷⁴ <https://www.hcch.net/en/publications-and-studies/details4/?pid=2781>

⁷⁵ De Palo, G., D'Urso, M., Trevor, M., Branon, B., Cawyer, B. and Reagan L., 'Rebooting' the Mediation Directive; Assessing the limited impact of its implementation and proposing measures to increase the number of mediations in the EU, Study for the Committee on Legal Affairs of the European Parliament, 2014, p. 124.

⁷⁶ COM (2016) 411, p. 29

⁷⁷ <https://assets.hcch.net/docs/94f20c64-8cfa-43db-8858-94b04d111fde.pdf>

consider whether they are willing to engage in mediation or other means of alternative dispute resolution (Article 25). This is not an absolute duty: courts may refrain from such a referral if it would be contrary to the best interests of the child, if it would not be appropriate in a particular case (for example, in cases of domestic violence), or if it would unduly delay the proceedings. Courts may refer parties directly to existing networks and support structures for mediation in cross-border parental responsibility disputes (Recital 43)⁷⁸ or request the assistance of the Central Authorities, which continue to bear responsibility for facilitating agreement between holders of parental responsibility (Article 79 “g”).⁷⁹ Central Authorities typically explain the benefits of amicable agreement, provide information about mediation services and qualified mediators, and cooperate with the Central Authorities of another Member State when mediation takes place there.⁸⁰ They may advise on the implementation of the Mediation Directive.⁸¹ The European Parliament’s Coordinator for Children’s Rights also plays an important role in promoting cross-border mediation in international family disputes and assisting parties in navigating the available mechanisms in international child abduction cases.⁸²

However, Brussels IIb Regulation does not contain explicit provisions on the recognition and enforcement of mediated agreements, beyond the general rules applicable to decisions, authentic instruments, and agreements. As a result, mediation agreements that have not been confirmed by a court, nor formally drawn up or registered by a public authority fall outside any specific framework for cross-border circulation and need special regulatory attention.⁸³

An amicable agreement may also be reached directly before the court seized of the return application. It may concern the return of the child, but it may equally form part of a broader agreement on the substance of parental responsibility, which encompasses the return/non-return issue. For the latter, the court seized must have international jurisdiction. Article 9(1) in conjunction with Article 10 of Brussels IIb Regulation expressly allows the holders of parental responsibility to confer jurisdiction on that court by agreement or acceptance. This enables a swift and definitive resolution of the complex set of disputes in a manner chosen by the parties, which most probably would be in the best interests of the child. The Regulation also encourages Member States that apply a system of concentrated jurisdiction to allow the court seized with the return application to exercise the jurisdiction agreed upon or accepted by the parties in matters of parental responsibility when such an agreement is reached during the return proceedings (Recital 22). The aim is to remove a procedural obstacle that would otherwise require separate proceedings, thereby enabling a single court to decide both on the return of the child and on the substance of parental responsibility. Taken together, these new legislative amendments represent an important and positive development in facilitating effective and child-centred dispute resolution.

A key recommendation for enhancing the speed and effectiveness of resolving conflicts involving international child abduction is to further promote the use of alternative dispute resolution

⁷⁸ See, on this point: European e-Justice Portal, Family mediation.

⁷⁹ Swiss Institute of Comparative Law, Cross-border parental child abduction in the European Union, Study for the Committee on Legal Affairs, 2015, available at [http://www.europarl.europa.eu/RegData/etudes/STUD/2015/510012/IPOL_STU\(2015\)510012_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2015/510012/IPOL_STU(2015)510012_EN.pdf), p 100.

⁸⁰ For further details concerning cross-border family mediation see European e-Justice Portal, Family mediation.

⁸¹ Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters, *OJ* 24 May 2008, L 136, 3.

⁸² [The European Parliament Coordinator on Children’s Rights](#)

⁸³ Kruger, Th., Carpaneto, L., Maoli, F., Lembrechts, S., van Hof, T. and Sciaccaluga, G, Current-day international child abduction: does Brussels IIb live up to the challenges? 2022, *Journal of Private International Law*, p. 174.

mechanisms, including by developing specific legislation on the cross-border recognition and enforcement of mediation agreements. Efforts should focus on strengthening specialised centres for cross-border family mediation, improving judges' capacity to refer parties to ADR mechanisms, and making more effective use of direct and indirect judicial cooperation, including between Central Authorities and judicial networks, to facilitate amicable agreements.

2.1.4. Strengthening the rights of the person seeking the return

In international child abduction cases, the focus is, of course, on the child. At the same time, wrongful removal or retention also interferes with the right to respect for family life not only of the child but also of the left-behind parent. It is the latter who is typically deprived of contact with the child and must initiate and pursue a series of procedural steps to secure the child's return. The fundamental rights of the left-behind parent and those of the child are closely intertwined, although not necessarily dependent on one another – safeguarding one will often contribute to the protection of the other.

Under the 1980 Hague Convention, such protection extends to the left-behind parent only indirectly, flowing from the overarching aim of ensuring the prompt return of the child and from the general obligation under Article 7(2)(b) to 'prevent further harm to the child or prejudice to interested parties.

The Brussels IIb Regulation recognises the interests of the left-behind parent alongside those of the child, but also independently, through a number of targeted provisions.

First, Article 27(1) Brussels IIb Regulation provides that the court cannot refuse to return the child unless the person seeking the return has been given an opportunity to be heard – a rule already contained in the repealed Brussels IIa Regulation (Art. 11(5)). This procedural right corresponds to the fundamental right to a fair trial (Articles 47(1)-(2) CFREU and Article 6(1) ECHR) and ultimately benefits the child, as it enables the court to understand the applicant's perspective and the impact of the abduction.⁸⁴

Second, Article 27(2) Brussels IIb Regulation introduces a uniform legal basis enabling the court in the Member State of refuge to examine, at any stage of the return proceedings, whether contact between the child and the person seeking the return should be ensured, taking into account the best interests of the child. To this end, the court may adopt provisional, including protective, measures under its national law, with the aim of safeguarding contact. The objective is to avoid a situation where the separation and the lack of contact negatively affect the enjoyment of the right to family life by both the child and the left-behind parent.⁸⁵ This amendment is in line with Articles 9, 10 and 20 of the UNCRC.

Third, in cases where the return is opposed based on Article 13(1)(b) of the 1980 Hague Convention – if there is a grave risk that the return would expose the child to physical or psychological harm or otherwise place him or her in an intolerable situation – the Brussels IIb Regulation expressly allows the court to give the person seeking the return the opportunity to provide sufficient evidence that adequate arrangements have been made in the Member State of habitual residence prior to the wrongful removal or retention to secure the child's protection after return (Art. 27(3)). These measures aim to ensure the child's protection and well-being after the return. Brussels IIb Regulation gives concrete examples in Recital 45, such as a prohibition order preventing the applicant from approaching

⁸⁴ Lusznat, L. op. cit., p. 148.

⁸⁵ Brussels IIb Regulation Practice Guide, op. cit., p. 101.

the child, provisional, including protective measures allowing the child to remain with the abducting parent who is the primary carer until a custody decision is made, or proof of access to appropriate medical facilities for a child requiring treatment. Importantly, the Regulation also clarifies how the actual implementation of such measures should be evidenced. This task is not placed solely on the parents seeking the return. It may be supported through direct judicial communication between the courts of the Member States or with the assistance of Central Authorities or judicial networks, such as the European Judicial Network in civil and commercial matters (hereafter EJN-civil) or the International Hague Network of Judges (hereafter IHNJ), ensuring that the arrangements are real and effective. The clarifications introduced as regards the request, its scope, the burden of proof, and the verification of adequate arrangements represent a significant practical refinement of a similar mechanism previously provided for in Article 11(4) of the Brussels IIa Regulation.⁸⁶

The possibility to order the child's return where adequate arrangements in the State of origin are put in place helps reduce refusals of return based on Article 13(1)(b) of the 1980 Hague Convention – refusals which, according to the 2021 statistics, represented nearly half of all grounds for non-return.⁸⁷

In light of these enhancements to the 1980 Hague Convention framework, it is recommended to reinforce judicial training on the use of all types of provisional measures, including adequate arrangements in a cross-border context, and to promote the widest possible use of direct judicial communication, as well as the assistance of Central Authorities, the EJN-civil and the IHNJ. In addition, further capacity-building of these networks would strengthen their ability to support courts in handling complex cross-border abduction cases effectively.

It would also be highly beneficial to develop comprehensive and accessible information for each Member State detailing the types of provisional measures, including adequate arrangements available under national law, the authorities competent to order them, and the evidentiary requirements for their application. Such transparency would facilitate judicial cooperation, improve the consistency of decisions, and enhance mutual trust across jurisdictions.

2.1.5. Fine-tuning of the proceedings in cases of return order

The Brussels IIb Regulation further refines the legal framework applicable to return orders under the 1980 Hague Convention. A return order is the expected outcome of return proceedings and is presumed to be in the child's best interests, subject only to the limited exceptions set out in Articles 12, 13, and 20 of the 1980 Hague Convention. Despite this, according to the statistics regarding applications from 2021, return orders were issued in only 23% of all applications globally and in 26% of applications between EU Member States, indicating that the rate of ordered returns remains relatively low.⁸⁸

⁸⁶ The idea behind was endorsed in the C&R 40 of the Special Commission in 2011, Lorti, Ph., op. cit., p. 27.

⁸⁷ Lowe. N. and Stephens, V. Global Report – Statistical study of applications made in 2021 under the 1980 Child Abduction Convention. Prel. Doc. No 19A of October 2023 [Global Report – Statistical study of applications made in 2021 under the 1980 Child Abduction Convention](#)

⁸⁸ Lowe. N. and Stephens, V. Global Report – Statistical study of applications made in 2021 under the 1980 Child Abduction Convention. Prel. Doc. No 19A of October 2023 [Global Report – Statistical study of applications made in 2021 under the 1980 Child Abduction Convention](#) and Prel. Doc. No 19B of October 202 [Regional Report – Statistical study of applications made in 2021 under the 1980 Child Abduction Convention](#)

To strengthen judges' confidence in ordering the child's return, as well as the ability of left-behind parents to enforce such orders in practice, the Brussels IIb Regulation introduces several rules.

First, the Regulation clarifies in Articles 1(1)(b), 1(2)(a), 2(2)(8) and 2(9) that a return order is not a decision on parental responsibility (see also Recital 73). This is consistent with Article 19 of the 1980 Hague Convention and the case law of CJEU.⁸⁹ Drawing a clear boundary helps to ensure that the court seised of the return application does not engage with the substance of custody disputes and facilitates the proper understanding and use of the return order in subsequent proceedings.

Second, Brussels IIb Regulation provides, upon application of a party, for the issuance of a certificate under Article 36(1)(c), in the form set out in Annex IV. This certificate contains structured information that is suitable for automatic translation and is intended to facilitate the swift and effective enforcement of the return order. No equivalent standardised form exists under the 1980 Hague Convention.

Third, Article 27(5) allows the return order to be accompanied by provisional, including protective, measures aimed at mitigating the grave risk under Article 13(1)(b) of the 1980 Hague Convention, with cross-border effect (Art. 2(1)(b)). These are measures available under the law of the Member State of refuge, effective there until the return takes place, and capable of recognition and enforcement in the Member State of origin and in other Member States, if needed. Their effective cross-border operation, however, often requires direct communication between the courts of the Member States concerned, with support from Central Authorities or judicial networks, such as the EJN-civil and the IHNJ, as emphasised in Recital 46 and further developed in Part V of Brussels IIb Regulation devoted to the cooperation mechanisms.

These provisional, including protective, measures operate in parallel with the concept of adequate arrangements and are designed to reduce the excessive reliance on Article 13(1)(b) as a ground for refusal of return.

A further significant added value concerning return orders is the explicit provision that they are subject to recognition and enforcement in all EU Member States, in the same way as other decisions on parental responsibility (Articles 1(3), 2(1) and 36(1)(c) and Recital 16). This is particularly important in situations of a subsequent abduction: instead of having to initiate a new return procedure under the 1980 Hague Convention, the left-behind parent may rely directly on the existing return order and apply for its enforcement in the Member State where the child has been re-abducted. This legal framework represents a new development with no equivalent in the 1980 Hague Convention or in the repealed Brussels IIa Regulation.

Similar to the previous recommendation, improving the effectiveness of the 1980 Hague Convention in this respect requires strengthening judicial knowledge on the use of cross-border provisional including protective measures, further developing the capacity for direct judicial communication, and enhancing the use of Central Authorities and judicial networks – including the EJN-civil and the IHNJ. Effective communication is particularly crucial, especially in situations where there is a risk of conflicting judicial decisions.

⁸⁹ Case C-376/14 PPU, *CvM*, Judgment of 5 October 2010, ECLI:EU:C:2010:582, para. 40.

To support judges in this regard, it would be highly beneficial to develop a comprehensive and easily accessible database detailing the types of provisional and protective measures available under national laws, the competent authorities, and the evidentiary requirements. Such a tool would promote consistency, mutual trust, and more effective cross-border cooperation.

It is also important to provide training for lawyers and child protection authorities so that they are familiar with the legal framework and aware of the various procedural avenues that may lead to the return of the child.

2.1.6. The overriding mechanism

The Brussels IIb Regulation includes a special procedure, commonly referred to as the “second-chance procedure” or “overriding mechanism,” which has no equivalent in the 1980 Hague Convention. In essence, it allows, under certain conditions, the court of the Member State of the child’s habitual residence prior to the abduction to have the final say on whether the child should return.

Introduced by the Brussels IIa Regulation, this mechanism applied if a return was refused pursuant to Article 13 of the 1980 Hague Convention. It allowed the court in the Member State of origin to subsequently issue a decision requiring the return of the child. Such a decision overrode the non-return decision made under the 1980 Hague Convention (Article 11(6)–(8) Brussels IIa Regulation).

The purpose of this mechanism is to deter wrongful removals or retentions by preserving the jurisdiction of the State of habitual residence of the child until this court has had the opportunity to decide on the custody proceedings, which could entail the return of the child.⁹⁰ In practice, however, its application has proven to be of limited effectiveness.⁹¹ Moreover, it has attracted substantial criticism, as it is considered to prolong and complicate proceedings⁹², to run counter to the principle of mutual trust⁹³, and in some instances to infringe the rights of children (for example, the extra procedure potentially increases conflict within the family and the stress on the child).⁹⁴

During the recast of the Brussels IIa Regulation, the European Commission did not propose to abolish the overriding mechanism, although it acknowledged the practical difficulties it generated.⁹⁵ Politically, its removal proved impossible. However, Brussels IIb Regulation introduced several important amendments to improve its practical operation.

First, the scope of the mechanism was narrowed so that it now applies only where the non-return decision is based on Article 13(1)(b) and/or Article 13(2) of the 1980 Hague Convention, rather than on any ground under Article 13. The Regulation also introduced a requirement that the ground(s) for non-return be indicated explicitly in the decision (Recital 48) and in a separate certificate (Annex I), issued *ex officio* by the court and transmitted to the party and/or to the court in the Member State of the child’s habitual residence prior to the abduction. The certificate contains detailed guidance on the

⁹⁰ Lusznat, L. op. cit., p. 151. Kruger, Th., Carpaneto, L., Maoli, F., Lembrechts, S., van Hof, T. and Sciacaluga, G, op. cit., p. 177.

⁹¹ Beaumont, P., Walker, L. and Holliday, J. Conflicts of EU courts on child abduction: the reality of Article 11(6)–(8) Brussels IIa proceedings across the EU, *Journal of Private International Law* 2016, 211–260.

⁹² Kruger, Th, and Samyn, L., op.cit., p. 159, Lusznat, L. op. cit., 152.

⁹³ Martiny, D. op.cit., p. 514.

⁹⁴ Kruger, Th, and Samyn, L., op.cit., p. 159.

⁹⁵ COM (2016) 411, p. 3.

possibility of initiating subsequent proceedings concerning parental responsibility in that Member State.

Second, the subsequent decision of the court in the Member State of the child's habitual residence prior to the abduction may now override the non-return decision only where this decision concerns the substance of rights of custody.⁹⁶ This marks a clear departure from the previous approach under Article 11(8) of the Brussels IIa Regulation and from the CJEU's case law, according to which any subsequent judgment "requiring the return of the child" could prevail over the non-return decision.⁹⁷ This amendment is considered to be more in line with the 1980 Hague Convention.⁹⁸ Such a subsequent decision is accompanied by a certificate (Annex VI). Before issuing the decision and the certificate, the court of origin must ensure, *inter alia* that all parties and the child have been given an opportunity to be heard and that the decision duly takes into account the reasons and facts underlying the non-return decision (Article 47). The certificate itself may be subject to rectification or withdrawal if it has been wrongly granted in the Member State of origin (Article 48).

Third, a subsequent decision on the substance of rights of custody that entails the return of the child may be recognized and enforced in the Member State to which the child was wrongfully removed or retained, or in any other Member State, under the special rules for "privileged decisions".⁹⁹ No separate procedure is required, provided that the decision is accompanied by the certificate in Annex VI. Opposition to its recognition and enforcement is only possible if, and to the extent that, it is irreconcilable with a later decision on parental responsibility concerning the same child. Such a later decision may originate in the Member State where recognition is sought, or in another Member State or in the non-Member State of the child's habitual residence, provided it meets the conditions for recognition in that Member State (see Article 50 and Recital 52).

In addition, enforcement of a privileged decision may be refused in exceptional circumstances where enforcement would expose the child to a grave risk of physical or psychological harm of a lasting nature. This harm may result from temporary impediments or from any other significant change of circumstances arising after the decision was issued (Article 56(4) and (6)). This new ground for refusal constitutes a departure from *Povse*, in which the CJEU held that, under Brussels IIa Regulation, changes affecting the child's best interests were a matter solely for the court of origin, which retained jurisdiction on the substance.¹⁰⁰ These new enforcement rules clearly demonstrate a shift towards a more child-centred and humanised approach.¹⁰¹ By moderating the automatic operation of the overriding mechanism, the Regulation allows enforcement to reflect significant changes in circumstances and to better safeguard the child's best interests.

Ultimately, in a broader conceptual sense, this amendment shifts the assessment of any newly arisen grave risk back to the Member State seized of the return proceedings, thereby realigning the overall system with the logic of Article 13(1)(b) of the 1980 Hague Convention.¹⁰²

⁹⁶ Kruger, Th., Carpaneto, L., Maoli, F., Lembrechts, S., van Hof, T. and Sciacaluga, G, op. cit., p. 177.

⁹⁷ Case C-211/10 PPU, *Povse*, Judgment of 1 July 2010, EU:C:2010:400, paras 53, 58 and 61.

⁹⁸ Lortie, P., op. cit., 673.

⁹⁹ Used in the title of section 2 of Chapter IV of Brussels IIb Regulation.

¹⁰⁰ Case C-211/10 PPU, *Povse*, Judgment of 1 July 2010, EU:C:2010:400, para. 81.

¹⁰¹ Kruger, Th., Carpaneto, L., Maoli, F., Lembrechts, S., van Hof, T. and Sciacaluga, G, op. cit., p. 184.

¹⁰² Luszkat, L. op. cit., p. 152.

The effectiveness of the improved overriding mechanism has not yet been the subject of a dedicated empirical assessment. In any event, its practical operation is difficult to measure, as these proceedings do not necessarily involve Central Authorities and are therefore less visible in statistical reporting. To avoid misuse of the mechanism and unnecessary prolongation of return-related disputes, specialised training for judges, Central Authorities and legal practitioners remains essential in order to strengthen their capacity to apply it appropriately and efficiently. Given its persistent complexity and the ongoing debate over its practical value, the future of the overriding mechanism is likely to remain a topic of consideration in any subsequent discussions on a further recast of the Brussels IIb Regulation.

2.1.7. Enhanced judicial cooperation

Among the improvements introduced by the Brussels IIb Regulation, one of the most widely acknowledged is the enhanced framework for cooperation between Central Authorities and, importantly, the new possibility for direct judicial communications beyond the EJC-civil and the IHJ. Although the cooperation provisions on parental responsibility of the Regulation do not formally apply to return proceedings under the 1980 Hague Convention – since such proceedings, as stated above, do not concern the substance of parental responsibility – Central Authorities and courts may rely on them where the Brussels IIb Regulation complements the 1980 Hague Convention. This includes, for example, situations in which the court of the Member State of refuge must verify whether adequate arrangements have been made to protect the child after their return (Article 27(3)), or when it adopts provisional, including protective, measures to address the Article 13(1)(b) grave-risk objection (Article 27(5)). They can also facilitate mediation (Article 79g).

The Brussels IIb Regulation reinforces the role of Central Authorities by calling on Member States to ensure that they are provided with sufficient financial and human resources to perform the functions entrusted to them under the Regulation (Recital 72).

A particularly significant added value introduced for the first time by the Brussels IIb Regulation is the possibility, under Article 86 (1) and (2)(d), for courts of the Member States to cooperate and communicate directly with one another in matters of international child abduction, or to request information directly, provided that such communication respects the procedural rights of the parties and the confidentiality of information. Prior to this provision, communication between courts was generally indirect, taking place through Central Authorities – as required under the 1980 Hague Convention and the former Brussels IIa Regulation – or via specialised judicial networks, such as the IHJ and the EJC-civil. The inclusion of direct judicial communication in the Brussels IIb Regulation builds on earlier EU-level developments, notably the long-standing call of the Legal Affairs Committee of the European Parliament for such a mechanism to be incorporated into the Brussels IIa framework.¹⁰³

Direct judicial communication strengthens mutual trust, improves the efficiency of cross-border cooperation and contributes significantly to expediting child abduction proceedings, where delays can cause irreparable harm to the child. To realise these benefits, however, Member States should invest in specialised and continuous training for judges dealing with cross-border family matters.

Judicial communication would continue to rely on the existing networks, in particular the IHJ and the EJC-civil, whose effectiveness depends heavily on the presence of specialised judicial counterparts in

¹⁰³ European Parliament legislative resolution of 18 January 2018, amendment 54, available at [TA](#)

the Member States. Experience shows that the most successful models of cross-border cooperation come from jurisdictions where such specialised roles exist, whereas in systems where contact-judge duties are merely an ancillary addition to an already full judicial workload, judicial cooperation tends to be significantly less effective in practice.¹⁰⁴ Given the complexity, sensitivity, and urgency of such cases, the designation of specialised judges primarily engaged in cross-border family matters, including child abduction – whether as liaison magistrates or specifically appointed family judges – could substantially increase the effectiveness of judicial communication and, consequently, contribute to the faster resolution of cases, which is ultimately in the best interests of the child.¹⁰⁵

In light of the expanded framework for direct judicial communication under the Brussels IIb Regulation, there is a clear need for dedicated guidance to support judges in conducting such communication specifically in the context of international child abduction proceedings. This guidance should clarify the permissible forms, scope, and safeguards of direct communication between courts, ensuring compliance with procedural rights, confidentiality obligations, and the best interests of the child. In developing such tools, inspiration may be drawn from the *General Principles for Judicial Communications* developed by the IHNJ¹⁰⁶, which set out widely accepted safeguards and practical parameters for direct judicial contact. Tailored guidance of this kind would strengthen the coherent and confident application of Article 86 across the EU and enhance the effectiveness and timeliness of cross-border child abduction proceedings.

2.2. Additional preventive and return-facilitating measures

The Brussels IIb Regulation contains provisions relevant to international child abduction not only in its specific Chapter III but also elsewhere in the Regulation. Its broader scope covers international jurisdiction and the circulation of judicial decisions, authentic instruments, and agreements concerning parental responsibility – issues that may precede, accompany, or follow an abduction. As such, these additional rules can, in certain cases, have a preventive effect against potential abductions, limit *forum shopping* advantages arising from wrongful removals or retentions, and offer alternative legal avenues to achieve the child's return to the State of his or her habitual residence prior to the abduction.

2.2.1. Retention of jurisdiction in cases of child abduction

The first such provision of added value is the so-called *retention of jurisdiction* in cases of wrongful removal or retention of a child, as set out in Article 9 of the Brussels IIb Regulation. While the 1980 Hague Convention, due to its limited scope, contains no equivalent rule, a similar concept appears in Article 7 of the 1996 Hague Convention, which served as the model for Article 10 of the repealed Brussels IIa Regulation. Building on this framework, Article 9 of the Brussels IIb Regulation aims to prevent parental child abduction within the EU by ensuring that the courts of the Member State of the child's habitual residence before the wrongful removal or retention retain jurisdiction over the

¹⁰⁴ Brussels IIb Regulation Practice Guide, p. 170.

¹⁰⁵ See Article 2(1)(c) of the Council Decision of 28 May 2001 establishing a European Judicial Network in civil and commercial matters (2001/470/EC), <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32001D0470>

¹⁰⁶ <https://assets.hcch.net/docs/634ffb35-e1ce-4baf-aac2-439853478d74.pdf>

substance of the case, allowing it to shift to the courts of the Member State of refuge only in strictly limited circumstances.¹⁰⁷

International jurisdiction may pass to the courts of the Member State of refuge only in three narrowly defined situations.

The first is where the child has acquired habitual residence in the Member State of refuge and all holders of rights of custody have acquiesced in the removal or retention (Article 9(a)). The second applies where the child has also acquired habitual residence in the Member State of refuge and has lived there for at least one year after those with parental responsibility learned or should have learned of the child's whereabouts, the child has settled in the new environment, and at least one of five additional conditions is met. These conditions broadly correspond to situations where the legal remedies, including those developed by the Brussels IIb Regulation, to secure the child's return have not been exercised or have been unsuccessfully exhausted (Article 9(b)).

The third scenario arises where the jurisdiction of the courts of the Member State of refuge is agreed upon or accepted by the parties for their matters of parental responsibility during the return proceedings where they may agree on the return or non-return of the child (Article 9 in connection with Article 10).

The retention of jurisdiction mechanism introduced by Article 9 of the Brussels IIb Regulation adds value in at least three respects. First, it has a preventive function, as it discourages parents from abducting a child to another Member State in search of a more favourable forum (*forum shopping*).¹⁰⁸ Second, it serves a protective function, since it prevents the courts of the Member State of refuge from ruling on the substance of parental responsibility, thereby safeguarding the continuity of the jurisdiction of the courts in the Member States of the child's habitual residence. Finally, it performs a systemic function, as it preserves the procedural framework that safeguards the continued jurisdiction of the court of the Member State of origin, ensuring that it retains the final say and can issue the privileged decision.

The retention of jurisdiction makes sense precisely because of the important functions it fulfils. At the same time, in order to ensure individual justice in specific cases, jurisdiction may be transferred pursuant to Article 12 of the Brussels IIb Regulation. Although this possibility is not yet expressly regulated in the context of wrongful removal or retention, it has been developed through the case law of the CJEU, as will be discussed in the following section.

2.2.2. Transfer of jurisdiction to the court of the Member State of refuge (C-87/22, TT)

The question of whether the court of a Member State retaining jurisdiction in cases of international child abduction may transfer that jurisdiction to the court of another Member State seised of a return application under the 1980 Hague Convention remained open and controversial until recently. Some legal scholars argued that allowing such a transfer would undermine the general preventive function of

¹⁰⁷ Case C-211/10 PPU, *Povse*, Judgment of 1 July 2010, EU:C:2010:400, para. 45.

¹⁰⁸ Case C-87/22 TT v AK, ECLI:EU:C:2023:571, Judgment of 13 July 2023, para. 36

retaining jurisdiction, which aims to deter abductions.¹⁰⁹ Others, however, viewed it as a desirable solution, as it would allow considerations of the child's best interests in a specific situation to prevail over the general preventive objectives.¹¹⁰

In its judgment in Case C-87/22 TT v AK, CJEU gave a positive answer in a highly specific case, interpreting the former Article 10 of the Brussels IIa Regulation in conjunction with Article 15, which used to govern the retention and transfer of jurisdiction.

The CJEU's reasoning in favour of allowing such a transfer rests *inter alia* on the cooperative nature of the transfer mechanism – designed to enable the case to be heard by the better-placed court – and on the need to protect the best interests of the child as a guiding principle, as well as the child's fundamental rights, particularly those set out in Article 24(3) of the CFREU (paras 45–47).

Accordingly, the CJEU recognised that, exceptionally and after a balanced and reasonable assessment of the child's best interests, jurisdiction may be transferred to the court of the Member State to which the child has been abducted, thereby rebutting the presumption in favour of maintaining jurisdiction in the Member State of habitual residence.

In its judgment, the CJEU provided a detailed analysis of the conditions under which such a transfer is possible, including in relation to Article 16 of the 1980 Hague Convention, noting that the courts of the Member State to which the child has been wrongfully removed are temporarily prevented from ruling on the substance of rights of custody.

This development in the case law under the previous Brussels IIa Regulation remains highly relevant for the application of its successor.¹¹¹ It would be desirable for this possibility to be further clarified and expressly incorporated into the text in any future revision of Brussels IIb Regulation.

2.2.3. Abolition of the exequatur for non-privileged decisions

In certain cases, the return of an abducted child may be achieved through the recognition and enforcement, in the State of refuge, of a decision on parental responsibility that includes an obligation to hand over the child. With the abolition of the exequatur for all decisions on parental responsibility, introduced with the Brussels IIb Regulation, such decisions can now be recognised and enforced directly in the Member State of refuge, allowing the obligations they contain – including the handover of the child – to operate without the delays and uncertainties of the former intermediate procedure. This represents a viable alternative to return under the 1980 Hague Convention, since the Brussels IIb Regulation introduced a significant reform – the full abolition of exequatur, accompanied by appropriate safeguards at the enforcement stage.

This reform allows the interested party, based on the decision and its accompanying certificate (Annex III), to apply directly to the authorities competent for the enforcement in the State of refuge to initiate

¹⁰⁹ Wilderspin, M. European Private International Family Law: The Brussels IIb Regulation, 2023, 253–254., Schulz, A. Das Haager Kindesentführungsübereinkommen und die Brüssel IIa-Verordnung, in: Baetge D., von Hein, J., von Hinden, M., (eds.) Die richtige Ordnung, Festschrift für Jan Kropholler zum 70. Geburtstag, p. 444.

¹¹⁰ Rüsing, Chr. Zuständigkeitsübertragung nach Art. 15 EuEheVO 2003 und Art. 12, 13 EuEheVO 2019 in Fällen von Kindesentführungen, in: IPRax, 4/2024, p. 289, Garber, Th. in: Magnus, U., Mankowski, P. (eds.) European Commentaries on Private International Law ECPII, Volume IV, Brussels IIa Regulation, 2023, p. 199, Luszkat, L. op. cit., p. 153.

¹¹¹ Musseva, B. Recent case law of the European Court of Justice on transfer of jurisdiction in matters of parental responsibility, ERA Forum, 2025, p. 370.

enforcement proceedings. The general enforcement procedure in matters of parental responsibility no longer requires a declaration of enforceability, meaning that no additional, separate procedure is needed before enforcement can proceed in the other Member State (Article 34(1)).

The opposing party may invoke the limited grounds for refusal set out in Articles 39 and 41 only after enforcement proceedings have been initiated. In addition, two further grounds are directly linked to the enforcement process itself: the existence of a long-lasting grave risk under Article 56(6) and the grounds available under the national law of the enforcing Member State, insofar as they are not incompatible with the Regulation (Article 57). Both of these apply to general and privileged decisions alike.

This avenue of enforcement does not interfere with the procedure under the 1980 Hague Convention and, in some cases, may prove to be a faster and more effective alternative.

Furthermore, as presented above, the Brussels IIb Regulation expressly allows return orders to be recognised and enforced in a Member State other than the Member State of refuge, thereby enabling the left-behind parent to seek enforcement of the return decision in another jurisdiction. In such cases, the decision is non-privileged and subject to the general provisions on recognition and enforcement.

The simplification of the rules governing the circulation of decisions on parental responsibility and return orders is fully justified in an area of free movement, where cross-border mobility is facilitated, and Member States apply common rules founded on mutual trust.

2.2.4. Recognition and enforcement of authentic instruments and agreements

Among the measures supporting the objectives of the 1980 Hague Convention, namely the prevention of child abduction and, where it occurs, the prompt return of the child, within the scope of the Brussels IIb Regulation, particular attention should be paid to the explicit inclusion of authentic instruments and agreements as defined in Article 2(2)(2) and (3) of the Regulation.

In the abduction context, these instruments and agreements may also operate as an alternative route to securing a child's return. Where they contain an obligation concerning the child's residence or handover, they enable the left-behind parent to obtain compliance in the Member State of refuge without resorting exclusively to Hague return proceedings, thereby complementing the Convention's remedial framework.

Such instruments must have been formally drawn up or registered in a Member State assuming jurisdiction under Chapter II (Article 64). They reflect the parents' mutual consent and provide a peaceful and constructive means of settling issues related usually to custody, contact rights or the child's habitual residence. These extrajudicial arrangements can significantly reduce or even eliminate the risk of abduction.

If abduction nonetheless occurs, the Regulation establishes specific rules for their recognition and enforcement in another Member State. Their circulation is conditional on the issuance of a mandatory certificate under Article 66, confirming jurisdiction, binding legal effect, and the absence of any indication that the agreement would be contrary to the child's best interests (Article 66(2) and (3)).

The grounds for refusal of recognition and enforcement largely mirror those applicable to judicial decisions, with minor deviations¹¹². Unlike purely private mediated agreements, this category of extrajudicial agreement benefits from a clear legal framework governing their cross-border circulation within the EU. In certain situations, their enforcement may serve as an alternative pathway to achieving the return of an abducted child, complementing the mechanism of the 1980 Hague Convention.

¹¹² Regarding the default of appearance and the hearing of the child

3. 1980 CHILD ABDUCTION CONVENTION AND 1996 CHILD PROTECTION CONVENTION

KEY FINDINGS

In abduction cases between an EU Member State and any of the 32 non-Regulation States, the 1980 Convention is supplemented by the supporting rules of the 1996 Hague Convention. These rules address several key issues:

- Retention of jurisdiction in case of child abduction
- Contact orders during the proceedings
- Urgent measures of protection with cross-border effect
- Enhanced cooperation between the Central Authorities
- Enhanced communication of information between authorities

An alternative route to securing the child's return through the general system of recognition and enforcement.

Like Brussels IIb Regulation, the 1996 Hague Convention does not in any way replace the operation of the 1980 Hague Convention.

The Brussels IIb Regulation is not the only instrument that contributes to the effective application of the 1980 Hague Convention. Even before the adoption of EU rules in this field, the 1996 Hague Convention had already introduced a set of supplementary mechanisms designed to strengthen and facilitate the operation of the 1980 Hague Convention.¹¹³ It was exactly the 1996 Hague Convention that inspired the EU legislator to develop its own, more elaborate framework presented above.¹¹⁴

At present, the mechanisms of the 1996 Hague Convention apply to cases of child abduction between the 26 Regulation States and 32 other Contracting Parties – all of which are also parties to the 1980 Hague Convention.¹¹⁵ Like Brussels IIb Regulation, it does not in any way replace the operation of the 1980 Hague Convention.¹¹⁶

The provisions of the 1996 Hague Convention that play a particularly important supportive role for the functioning of the 1980 Hague Convention concern: retention of jurisdiction in cases of child abduction; contact orders during the proceedings; urgent measures of protection with cross-border effect; cooperation between Central Authorities; communication of information, and the alternative path for recognition and enforcement of custody decisions. The following analysis outlines how they complement and enhance the return procedure under the 1980 Hague Convention.

¹¹³ Practical Handbook, op. cit., p. 139.

¹¹⁴ Lortie, P. op. cit., p. 671.

¹¹⁵ The total number of Contracting States is 58, of which 26 are Member States of the EU, i.e. there are currently 32 non-Regulation States.

¹¹⁶ McEleavy, P. The 1996 Hague Convention and the European Union: Connection and Disconnection, in: A Commitment to Private International Law. Essays in honour of Hans van Loon, 2013, p. 375.

3.1. Retention of jurisdiction in case of child abduction

At the outset, the 1996 Hague Convention supports the operation of the 1980 Hague Convention through a special jurisdictional rule that preserves the jurisdiction of the authorities of the Contracting State where the child was habitually resident before the wrongful removal or retention, until clearly defined conditions are met.

The objective is to ensure that a person who wrongfully removes or retains a child cannot benefit from this unlawful act by obtaining a change in the authorities having jurisdiction to take measures relating to custody or access/contact. In addition, this rule draws a clear boundary regarding the scope of measures of protection that may be adopted in respect of the child pending resolution of the case.¹¹⁷

According to Article 7 of the 1996 Hague Convention, jurisdiction remains with the authorities of the Contracting State of the child's original habitual residence until the child has acquired a habitual residence in another State and one of two conditions is met: either (a) the removal or retention has been acquiesced in by those with rights of custody, or (b) in that other State for a period of at least one year after the person, institution, or other body having rights of custody has or should have had knowledge of the whereabouts of the child, no request for return lodged within that period is still pending, and the child is settled in his or her new environment.

This provision has been effectively reproduced in the logic later embodied in Article 10 of the Brussels IIa Regulation and now reflected in Article 9 of the Brussels IIb Regulation. The comparison between the two provisions on the retention of jurisdiction shows that the one under the Brussels IIb Regulation is stricter, as it allows for the transfer of jurisdiction only under more stringent conditions.¹¹⁸

While the approaches differ, the 1996 Hague Convention substantially contributes to the underlying objective of preventing any advantage being gained from the wrongful removal or retention of a child through a change in jurisdiction in matters of parental responsibility. This fundamental value is further reinforced through the synergy achieved with the Brussels IIb Regulation, which strengthens coherence and consistency in the international protection of children.

3.2. Contact orders during the proceedings

The second element through which the 1996 Hague Convention contributes to the effective application of the 1980 Hague Convention concerns the conferral of jurisdiction on the court dealing with the return application to adopt provisional measures ensuring contact between the child and the left-behind parent during those pending proceedings. This possibility is inferred through interpretation of Article 11(1) of the 1996 Hague Convention, which provides that in all cases of urgency, the authorities of any Contracting State in whose territory the child is present have jurisdiction to take any necessary measures of protection.¹¹⁹

¹¹⁷ Practical Handbook, p. 139, McEleavy, P. op.cit, p. 375.

¹¹⁸ McEleavy, P.p. 376, The key difference arises in situations where the court of the State to which the child has been wrongfully removed has refused the return. Under the 1996 Hague Convention, jurisdiction shifts to the State of refuge where (i) a period of 12 months has elapsed since the wrongful removal and (ii) the child has acquired its habitual residence there. By contrast, under the Brussels IIb Regulation, a transfer of jurisdiction occurs only where the left-behind parent has lost the possibility of obtaining the child's return in proceedings before the courts of the State of habitual residence of the child prior the abduction.

¹¹⁹ Practical Handbook, p. 141.

This amendment adds considerable value to the 1980 Hague Convention by ensuring continuity of the parent-child relationship while the return proceedings are ongoing. The corresponding rule under Article 27(2) of the Brussels IIb Regulation as presented above makes this mechanism more visible and explicit, being in a separate Chapter and expressly empowering the court to adopt measures on contact with the left-behind parent.

The synergy between the two instruments enhances both the visibility and effectiveness of this protective function – benefiting Member States within the EU as well as other Contracting States to the 1996 Hague Convention by promoting its broader understanding and a more child-centred practice.

3.3. Urgent measures of protection with cross-border effect

The 1996 Hague Convention supplements the 1980 Hague Convention in situations where the judicial or administrative authority intends to order the return of a child under the 1980 Convention but has concerns about potential risks. In such cases, it may do so on the condition that certain necessary urgent measures are put in place to ensure the child's safe return and continued protection in the State of origin until its authorities are able to act.¹²⁰ This possibility is likewise inferred through interpretation of Article 11(1) of the 1996 Hague Convention, discussed above in connection with contact between the child and the left-behind parent. Such interpretation allows the authorities of the State of refuge, in cases of urgency, to take any necessary measures of protection.

This concept – combining the return order with protective measures – represents one of the most valuable contributions of the 1996 Hague Convention to the practical operation of the 1980 Hague Convention. It provides a flexible tool that reconciles the return and its prompt enforcement with the child's need for protection. The Brussels IIb Regulation builds upon this foundation by giving the mechanism greater visibility and procedural clarity. These instruments enhance coherence and predictability in cross-border child abduction cases and should facilitate the wider use of adequate arrangements or provisional arrangements, including protective ones, thereby reducing refusals of return based on Article 13(1)(b) of the 1980 Hague Convention – the ground most relied upon by courts to justify a refusal to order the child's return, as already highlighted,.

3.4. Cooperation between the Central Authorities

Another supplementary framework supporting the operation of the 1980 Hague Convention concerns cooperation between Central Authorities. Under the 1980 Convention, such cooperation is limited to providing "information of a general character as to the law of their State in connection with the application of the Convention" (Article 7(2)(e)). In contrast, the 1996 Hague Convention envisages a broader exchange of information, which may concern not only the content of domestic law but also "services available in their States relating to the protection of children".¹²¹ Central Authorities also play an active coordinating role *inter alia* by facilitating agreed solutions through mediation or similar means, assisting in locating the child, providing information or reports on the child's situation, and, where appropriate, requesting their national authorities to consider the adoption of protective measures (Articles 31 and 32).

¹²⁰ Practical Handbook, p. 140.

¹²¹ Practical Handbook, p. 141.

The extended functions of the Central Authorities under the 1996 Hague Convention add significant value to the practical operation of the return procedure. By broadening their role beyond the mere exchange of legal information, these extended functions enhance the efficiency of the system. They enable quicker communication, reduce procedural delays, and ensure that protective measures or return orders can be implemented easily and without a risk of duplications. As a result, the overall process of securing the child's prompt return becomes more accessible, coordinated and effective.

3.5. Communication of information between authorities

The 1996 Hague Convention contains another provision that assists the operation of the 1980 Convention in the form of communication rules. According to Article 34 of the 1996 Hague Convention, a competent authority considering a protective measure for a child may request any authority of another Contracting State which has information relevant to the protection of the child to communicate such information. This may be particularly important where custody proceedings are pending in the State prior to the abduction and a refusal to return has been issued in the State of refuge. The grounds for such refusal may have significant relevance for the decision on custody. The opposite situation may also arise, where information from the State of the child's habitual residence prior to the abduction is needed, for instance, in connection with the adoption of protective measures.¹²²

The later inclusion of similar communication requirements in the Brussels IIa and Brussels IIb Regulations reinforces the practical implementation of this concept within the EU. More broadly, the framework established by the 1996 Hague Convention promotes coherence between States and enhances the overall level of protection for children in cross-border proceedings by fostering effective cooperation between competent authorities.

3.6. Recognition and enforcement of custody decision– Art. 23&24

Finally, the 1996 Hague Convention offers an alternative to the return procedure under the 1980 Hague Convention. Where an enforceable custody decision exists in the State of origin, including a right to demand the child's handover, it allows that decision to be recognised and enforced abroad. Under the 1996 Hague Convention, the left-behind parent may seek the recognition and enforcement of such a decision in the State to which the child has been wrongfully removed or retained. The decision must be declared enforceable or registered for enforcement, subject to the grounds for refusal provided by the 1996 Hague Convention (Article 23(2)).

This procedure may, depending on the specific scenario, be completed more swiftly than the return procedure under the 1980 Hague Convention. In this way, as also reflected in the Brussels IIb Regulation, the general framework for the free circulation of judicial decisions contributes to achieving the objective of the 1980 Hague Convention, namely the prompt return of the child to the State of his or her habitual residence prior to the abduction.

¹²² Practical Handbook, p. 141-142.

4. RECOMMENDATIONS

Based on the comparative assessment, the following recommendations to the European Union are proposed:

- Broader adherence: Encourage more States to join the 1980 and 1996 Hague Conventions and support their effective implementation to strengthen global protection.
- Child-friendly standards: Further develop and apply child-friendly procedural standards, building on the new EU legal framework and last Council of Europe recommendations.
- Mediation: Promote mediation and improve the cross-border enforcement of mediation agreements.
- Direct judicial communication: Provide clear guidance on secure, transparent, and structured direct communication between courts, aligned with IHNJ principles.
- Judicial specialization: Reinforce the EJN-civil and encourage Member States to designate specialized judges or liaison magistrates for child abduction cases.
- Judicial training: Strengthen training on protective measures, direct communication, and coordination with Central Authorities and networks.
- Online database: Create a comprehensive database on national child-protection laws, measures, and authorities to support consistent cross-border practice.
- Empirical monitoring: Collect regular statistical data on international child abduction within the EU to identify systemic challenges and guide improvements.
- Training for all child-related actors: Offer targeted training for lawyers, authorities, social workers, and others, like the free HELP courses or a dedicated EU-level training body for attorneys similar to EJTN.

Drawing on the comparative assessment between, on the one hand, the 1980 Hague Convention and the Brussels IIb Regulation and, on the other, the 1980 and 1996 Hague Conventions, the analysis highlighted the added value of each instrument and identified several areas in which further improvements could be envisaged. On this basis, the following recommendations can be made:

1. Promoting wider adherence to the 1980 Hague Convention and the 1996 Hague Convention by encouraging more states to accede, and supporting their effective implementation. A significant number of states are still not Parties to the 1980 Convention (90 at present), and the complementary mechanisms provided by the Brussels IIb Regulation and the 1996 Convention currently operate only among 58 states, which limits the overall coherence and effectiveness of the global framework. Broader participation is essential to ensure the swift return of wrongfully removed or retained children and to strengthen international cooperation in preventing and remedying child abduction.
2. Developing and strengthening child-friendly procedural standards in cross-border child abduction proceedings, building on the newly adopted autonomous EU standards on the hearing of the child and on procedural elements designed to expedite the process while fully respecting the best interests of the child. This development should be regarded as part of a

continuous process that requires sustained commitment at the national, EU and international levels to further strengthen these standards and to ensure their consistent and effective implementation in practice by national authorities and courts. More specifically, the autonomous standards developed at the EU level may serve as a reference point for strengthening child participation and the consideration of the child's best interests in cross-border child abduction proceedings worldwide, *inter alia* in the framework of the 1980 Hague Convention.¹²³ To build on this progress, child-friendly procedural standards should continue to be expanded. The EU-level standards, aligned with the newest guidance set out by the Council of Europe in Recommendations CM/Rec(2025)4 and CM/Rec(2025), may provide useful inspiration.

3. Promoting mediation as a preferred tool for resolving cross-border child abduction disputes, including the recognition of mediation agreements reached without the involvement of a court or other state authority. Efforts should focus on strengthening specialised centres for cross-border family mediation, improving judges' capacity to refer parties to ADR mechanisms, and making more effective use of direct and indirect judicial cooperation, including between Central Authorities, judicial networks, to facilitate amicable settlements.
4. Facilitating direct judicial communications by providing clear and practical guidance to support judges in conducting secure, transparent, and well-structured exchanges, specifically in the context of international child abduction proceedings. A dedicated guide should clarify the permissible forms, scope and safeguards of direct communication between courts, ensuring compliance with procedural rights, confidentiality obligations and the best interests of the child. Inspiration may be drawn from the General Principles for Judicial Communications developed by the IHNJ, which set out widely accepted safeguards and practical parameters for such contacts. Tailored guidance of this kind would strengthen the coherent and confident application of Article 86 of Brussels IIb Regulation across the EU and enhance the effectiveness and timeliness of cross-border child abduction proceedings.
5. Supporting the work of the EJN-civil by strengthening specialisation and promoting permanent judicial expertise in this field. Member States should be encouraged to engage along the contact points liaison of magistrates and/or family judges assisting in matters of international child abduction. Designating judges with a clear mandate, narrow specialisation and primary responsibility for these cases would enhance continuity, expertise, and trust, and contribute to more effective judicial cooperation. Experience shows that the most successful models of cross-border cooperation come from jurisdictions where such specialised roles exist, whereas in systems where contact-judge duties are merely an ancillary addition to an already full judicial workload, judicial cooperation tends to be significantly less effective in practice.
6. Strengthening judicial training and capacity-building on the use of cross-border provisional and protective measures, direct judicial communication, and coordination with Central Authorities and judicial networks. Targeted and continuous training can help ensure that judges apply these tools confidently and consistently, supporting more effective and timely handling of cross-border child abduction cases and avoiding the risk of conflicting judicial decisions.

¹²³ Freeman, M., *op.cit.*, p. 18.

7. Creating an accessible and comprehensive online database that brings together information on national child protection laws, available protective and provisional measures, competent authorities, and relevant evidentiary requirements. Such a resource would support a more consistent and practical use of these measures, including in cases of international child abduction. It would also help reduce reliance on the Article 13(1)(b) exception under the 1980 Hague Convention and strengthen the protection of the child.
8. Ensuring empirical monitoring and the regular collection of statistical data on international child abduction within the EU, building on the methodology of the 2021 HCCH Statistical Study. Such data are essential for identifying systemic challenges, understanding the causes of delays or non-return decisions, and supporting evidence-based improvements to child-protection mechanisms.
9. Providing targeted training for lawyers, child protection authorities, social workers, and all other actors with responsibilities toward children, in order to strengthen their understanding of the procedural mechanisms available under the 1980 and 1996 Hague Conventions and the Brussels IIb Regulation. Such training would enhance the quality and consistency of legal representation and child protection in cross-border child abduction cases. Training initiatives could include free online courses, such as those developed under the joint HELP program of the Council of Europe and the EU¹²⁴, as well as the possible establishment of a dedicated EU-level institution responsible for training legal professionals, similar in function to the European Judicial Training Network.

¹²⁴ <https://www.coe.int/en/web/help/about-help>

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This study, commissioned by the European Parliament's Policy Department for Justice, Civil Liberties and Institutional Affairs at the request of the Committee on Legal Affairs (JURI), examines the added value that the Brussels IIb Regulation and the 1996 Hague Convention bring to the 1980 Hague Convention. This enhanced framework enables 26 EU Member States to ensure the prompt return of abducted children while protecting their best interests, and its further improvement calls for continued joint efforts at both European and international level.

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