



TEXTS ADOPTED

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International and domestic parental abduction of EU children in Japan

European Parliament resolution of 8 July 2020 on the international and domestic parental abduction of EU children in Japan (2020/2621(RSP))

The European Parliament,

- having regard to Article 1 of the Universal Declaration of Human Rights,
- having regard to Article 9 of the United Nations Convention on the Rights of the Child (UNCRC) of 20 November 1989,
- having regard to the Hague Convention on the civil aspects of international child abduction of 25 October 1980 (hereinafter ‘1980 Hague Convention’),
- having regard to Article 2, Article 3(1), Article 3(5) and Article 3(6) of the Treaty on European Union (TEU),
- having regard to Article 24 of the Charter of Fundamental Rights of the European Union,
- having regard to the Vienna Convention on Consular Relations of 1963,
- having regard to the principles highlighted in its resolution of 28 April 2016 on safeguarding the best interests of the child across the EU on the basis of petitions addressed to the European Parliament¹,
- having regard to the EU Guidelines on the Promotion and Protection of the Rights of the Child of 2017),
- having regard to the role and activities of the European Parliament Coordinator on Children’s Rights, on the issue of parental child abduction and custody and access disputes involving children with EU citizenship in Japan,
- having regard to the deliberations of the Committee on Petitions during its meeting of 19-20 February 2020,

¹ OJ C 66, 21.2.2018, p. 2.

- having regard to Rule 227(2) of its Rules of Procedure,
- A. whereas in its meeting of 19 February 2020, the Committee on Petitions discussed petitions 0594/2019, 0841/2019, 0842/2019 and 0843/2019 concerning parental child abduction and visiting rights involving couples of mixed nationality, where one partner is an EU national and the other Japanese;
- B. whereas those petitions raised concerns over Japan’s poor record in the enforcement of court decisions to return children under the 1980 Hague Convention proceedings and over the lack of means to enforce the access and visiting rights, thus preventing EU parents from maintaining a meaningful relationship with their children residing in Japan;
- C. whereas the significant number of unsolved parental child abduction cases where one of the parents is an EU national and the other is a Japanese national is alarming;
- D. whereas there is no possibility under Japanese law to obtain shared or joint custody; whereas it has been shown by different sources that child abduction is a severe form of child abuse;
- E. whereas access or visiting rights of left-behind parents in Japan are severely limited or non-existent;
- F. whereas all Member States are Parties to the 1980 Hague Convention and the UNCRC;
- G. whereas Japan acceded to the 1980 Hague Convention in 2014 and has been a Party to the UNCRC since 1994;
- H. whereas children who are EU nationals and reside in Japan must enjoy the right to protection and care as is necessary for their well-being; whereas they may express their views freely; whereas such views must be taken into consideration on matters that concern them, in accordance with their age and maturity;
- I. whereas parents have the primary responsibility for the upbringing and development of their child; whereas Parties are obliged to use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of their child;
- J. whereas, in all actions relating to EU children in Japan, the child’s best interests must be the primary consideration;
- K. whereas every EU child in Japan must have the right to maintain, on a regular basis, a personal relationship and direct contact with both their parents, unless that is contrary to their interests;
- L. whereas Parties are obliged to ensure that a child is not to be separated from their parents against their will, except when competent authorities subject to judicial review, determine in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child; whereas such a determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child’s place of residence;

- M. whereas Parties are obliged to respect the right of a child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if this is contrary to the child's best interests;
 - N. whereas in order to secure the timely return of the child, all Parties to the 1980 Hague Convention must undertake to put in place domestic measures and legislation that are compatible with their treaty obligations and duties;
 - O. whereas a child whose parents reside in different states must have the right to maintain on a regular basis, save in exceptional circumstances, personal relations and direct contacts with both parents;
 - P. whereas French President Emmanuel Macron, Italian Prime Minister Giuseppe Conte and German Chancellor Angela Merkel spoke with Japanese Prime Minister Shinzo Abe on behalf of French, Italian and German parents, and the European Ambassadors to Japan sent a joint letter concerning parental abduction to the Japanese Minister for Justice;
 - Q. whereas in August 2019, a formal complaint was submitted to the UN Human Rights Council by parents whose children had been abducted by the other parent;
 - R. whereas Parliament's Coordinator on Children's Rights has been assisting individual parents and raising specific issues relating to parental child abduction and custody and access disputes involving EU nationals with the Japanese authorities since 2018, including the Japanese Minister for Justice in October 2018 and the Japanese Ambassador to the EU in May 2019;
 - S. whereas on 6 March 2020, the Committee on Petitions, and on 5 February 2020 Parliament's Coordinator on Children's Rights sent a letter to the Vice-President of the Commission / High Representative of the Union for Foreign Affairs and Security Policy (VP/HR), Josep Borrell, requesting that Japan's international obligations under the 1980 Hague Convention and the UNCRC be included on the agenda of the next joint meeting organised as part of the Strategic Partnership Agreement between the EU and Japan;
 - T. whereas on 31 January 2020, at the second joint committee meeting under the EU-Japan Strategic Partnership Agreement, the EU called on Japan to improve its domestic legal framework and its effective implementation so as to ensure the respect of judicial decisions and Japan's international commitments, such as the UNCRC and the 1980 Hague Convention; whereas the EU also insisted on the need to ensure the best interests of the child and to respect visiting rights granted to parents;
 - U. whereas following the outcome of its meeting of 19 - 20 February 2020, the Committee on Petitions sent a letter to the Mission of Japan to the European Union, in which it urged the Japanese authorities to comply with national and international legislation concerning children's rights and the civil aspects of international child abduction;
1. Expresses concern over the situation of children who are suffering as a result of a parental child abduction in Japan and over the fact that relevant laws and judicial decisions are not enforced everywhere; recalls that EU children in Japan must enjoy the protection provided for in the international agreements that safeguard their rights;
 2. Notes with regret that Japan, as a strategic partner of the EU, does not appear to be

complying with international rules in cases of child abduction; recalls that the country's legal framework should be improved so that, for instance, decisions handed down by the Japanese and other courts of relevant countries in procedures under the 1980 Hague Convention on the return of the child are enforced in Japan effectively;

3. Highlights the fact that human rights principles for children are dependent on the national actions of the Japanese Government; stresses that a number of legislative and non-legislative measures are required to safeguard, inter alia, a child's right to both parents; urges the Japanese authorities to enforce effectively court decisions on access and visiting rights granted to left-behind parents and on the latter maintaining meaningful contact with their children who reside in Japan; stresses that these decisions are to always be taken with the child's best interests in mind;
4. Stresses that child abduction cases require swift handling as the passage of time can have long-term adverse consequences for the child and for the future relationship between the child and the left-behind parent;
5. Points out the fact that parental child abduction can harm a child's well-being and can have long-term harmful effects; stresses that child abduction can lead to problems of mental ill-health for both the child and the left-behind parent;
6. Underlines that one of the main objectives of the 1980 Hague Convention is to protect children from the harmful effects of parental child abduction by establishing procedures to ensure the child's prompt return to the state of habitual residence immediately before their abduction;
7. Welcomes the support given by the Parliament's Coordinator on Children's Rights and her involvement in addressing this situation, and asks her to continue working with the Committee on Petitions to address the cases raised by petitioners;
8. Insists that all child-protection systems should have transnational and cross-border mechanisms in place, which take into account the specificities of cross-border conflicts;
9. Suggests that a European citizen-friendly informational support platform be established so as to provide assistance to parents in cross-border family disputes, in conjunction with the Hague Conference (e.g. completion of the e-Justice portal with information on parental child abduction in third countries and on other children's rights);
10. Recommends that the Member States make reliable information available to their citizens regarding family law and children's rights in third countries, which include alerts on difficulties they may encounter in countries such as Japan in cases of divorce or separation;
11. Welcomes the Commission's commitment to raise the issue in every possible forum, including the Joint Committee of the EU-Japan Strategic Partnership Agreement;
12. Calls on the VP/HR to include this issue on the agenda of the next meeting organised as part of the Strategic Partnership Agreement between the EU and Japan; calls on the Japanese authorities to apply its penal and civil codes;
13. Recalls that, under the 1980 Hague Convention, the Japanese authorities are obliged to ensure that Central Authorities fulfil their obligations, as set out in its Article 6 and

Article 7, which include assisting left-behind parents so that they may maintain contact with their children;

14. Recalls that the Japanese authorities are obliged to respect the provisions of the Vienna Convention on Consular Relations, so as to enable Member State representatives to fulfil their consular duties, particularly in cases when safeguarding the best interests of children and the rights of their parents (i.e. EU nationals) is at stake;
15. Emphasises that limiting or completely denying parents access and visiting rights runs counter to Article 9 of the UNCRC;
16. Requests that the Commission and the Council highlight the obligations of Parties to the UNCRC and in particular, the rights of children to maintain personal relationships and direct contact with both parents on a regular basis, unless it is contrary to the child's best interests;
17. Calls, in this respect, on the Japanese authorities to follow international recommendations to introduce the necessary changes to the country's legal system and put in place the possibility for shared or joint custody after the dissolution of the parents' relationship in order to bring their domestic laws into line with their international commitments, and to ensure that visiting and access rights reflect their obligations under the UNCRC; calls on the Japanese authorities to uphold their commitments to the UNCRC, which they ratified;
18. Calls on the Japanese authorities to better cooperate with the EU and to enable the effective enforcement of the access and visiting rights granted by court decisions to left-behind parents;
19. Calls on the Commission to pay particular attention to the recommendations received on cross-border mediation by all relevant stakeholders at national and EU level;
20. Calls for increased international cooperation among the Member States and with third countries, so as to implement all international legislation concerning child protection and, particularly, the 1980 Hague Convention;
21. Stresses that proper monitoring of the post-judgment situation is pivotal, including when contact with parents is involved; calls on the Member States to communicate, via their foreign ministries and embassies' websites in Japan, the risk of child abduction in the country and about the behaviour of the Japanese authorities on this matter;
22. Calls on the Council to enhance cooperation between the child abduction alert systems with cross-border implications established in the Member States, to work with the Commission on setting up child alert mechanisms where they are missing, and to report on the conclusion of the relevant cooperation agreements dealing with cross-border abduction cases, on the basis of Commission Guidelines for the Promotion and Protection of the Rights of the Child;
23. Calls on the Member States to undertake joint efforts and include this issue on the agenda of all bilateral or multilateral meetings with Japan in order to put pressure on the Japanese authorities to implement fully their obligations under international legislation on child protection;

24. Instructs its President to forward this resolution to the Council, the European Commission, the governments and the parliaments of the Member States, and to the Government and Parliament of Japan.