



2020/2621(RSP)

28.5.2020

# DRAFT MOTION FOR A RESOLUTION

pursuant to Rule 227(2) of the Rules of Procedure

**on international and domestic parental abduction of EU children in Japan**

(2020/2621(RSP))

**Dolors Montserrat**

on behalf of the Committee on Petitions

**European Parliament resolution on 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 1989 United Nations Convention on the Rights of the Child,
  - ☐ having regard to the 1980 Hague Convention on the civil aspects of international child abduction,
  - ☐ having regard to Articles 2 and 3(1), 3(5) and 3(6) of the Treaty of the European Union,
  - having regard to Article 24 of the EU Charter of Fundamental Rights,
  - having regard to the Vienna Convention on Consular Relations of 1963,
  - having regard to principles highlighted in the European Parliament 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 Parliament,
  - having regard to the EU Guidelines for the Promotion and Protection of the Rights of the Child (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 during the meeting of the Committee on Petitions on 19-20 February 2020,
  - having regard to Rule 227(2) of its Rules of Procedure,
- A. whereas the Committee on Petitions on its meeting of 19 February discussed petitions 0594/2019, 0841/2019, 0842/2019 and 0843/2019 concerning parental child abduction and visiting rights in EU-Japan relation;
- B. whereas those petitions raised concerns over Japan’s poor record of enforcement of court decisions to return children under the 1980 Hague Convention proceedings and, furthermore, over the lack of possibility to enforce the access and visiting rights thus preventing the EU parents to maintain 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 citizen and the other is Japanese citizen is alarming;

- D. whereas there is no possibility under the Japanese law to obtain the shared/joined custody; whereas it has been shown by different sources that Child abduction is a strong form of Child abuse;
- E. whereas access or visiting rights of the so called 'left-behind' parents in Japan are severely limited or non-existent;
- F. whereas all EU Member States are parties to 1980 Hague Convention and UNCRC;
- G. whereas Japan accessed the 1980 Convention in 2014 and is party to UNCRC since 1994;
- H. whereas EU children in Japan shall have the right to protection and care as is necessary for their well-being. They may express their views freely. Such views shall be taken into consideration on matters, which concern them in accordance with their age and maturity;
- I. whereas parents have the primary responsibility for the upbringing and development of the child. States shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child.
- J. whereas, in all actions relating to EU children in Japan, the child's best interests must be a primary consideration;
- K. whereas every EU child in Japan shall have the right to maintain on a regular basis a personal relationship and direct contact with both his or her parents, unless that is contrary to his or her interests;
- L. whereas States shall ensure that a child shall not be separated from his or her 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. Such 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 States shall respect the right of the 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 it is contrary to the child's best interests;
- N. whereas in order to secure timely return of the child all parties to the 1980 Hague Convention must undertake to put in place domestic measures and legislation compatible with their treaty obligations and duties;
- O. whereas a child whose parents reside in different States shall have the right to maintain on a regular basis, save in exceptional circumstances personal relations and direct contacts with both parents;
- P. whereas the French President Emmanuel Macron, the Italian Prime Minister Giuseppe Conte and the German Chancellor Angela Merkel spoke with the Japanese Prime

Minister Shinzo Abe on behalf of French, Italian and German parents and the European Ambassadors to Japan wrote a joint letter to the Minister for Justice of Japan concerning parental child abduction;

- Q. whereas a formal complaint was launched to the UN Human Rights Council by parents on behalf of children so affected in August 2019;
- R. whereas the EP 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 European citizens with Japanese authorities since 2018, including the Japanese Minister of Justice in October 2018 and the Japanese Ambassador to EU in May 2019;
- S. whereas on 6 March 2020 the Committee on Petitions and on 5 February 2020 the EP Coordinator on Children's Rights sent a letter to the High Representative of the Union for Foreign Affairs and Security Policy, Josep Borrell, requesting to include Japan's international obligations under the 1980 Hague Convention and the UNCRC in the agenda of the next joint meeting that is organised as a part of the Strategic Partnership Agreement between the EU and Japan;
- T. whereas at the second joint committee meeting under the EU-Japan Strategic partnership Agreement on 31 January 2020, the EU called on Japan to improve the domestic legal framework and its effective implementation to ensure the respect of judicial decisions and Japan's international commitments, such as the Convention on the Rights of the Child and the 1980 Hague Convention. The EU also insisted on the necessity to ensure the best interests of the child and to respect the visiting rights granted to parents;
- U. whereas following the outcome of its meeting on 19-20 February 2020 the Committee on Petitions sent a letter to the Mission of Japan to the European Union, urging the Japanese authorities to comply with the national and international legislation concerning children's rights and the civil aspects of international child abduction;
1. Expresses its concern on the situation of children who are suffering as a result of a parental child abduction in Japan and where the relevant laws and judicial decisions are not enforced; Recalls that EU children in Japan shall enjoy the protection provided for in the international agreements safeguarding their rights;
  2. Regrets that Japan as a strategic partner of the EU does not seem to comply with the international rules in cases of child abduction; reminds that the country's legal framework should be improved so that, for instance, decisions given by the Japanese and other courts of relevant countries in procedures under the 1980 Hague Convention on the return of the child are effectively enforced in Japan;
  3. Points out that human rights principles for children are dependent on the national actions of the Japan's government. It requires various measures, legislative and non-legislative, that serve to safeguard for instance child's right for both parents. Urges the Japanese authorities to effectively enforce the courts' decisions on access and visiting rights granted to "left-behind parents" to maintain the meaningful contact with their children who resides in Japan, always with the child's best interest 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 relations between the child and the 'left behind' parent;
5. Points out that parental child abduction impacts negatively on a child's wellbeing and can lead to long-term harmful effects; stresses that child abduction leads to mental ill-health problems for both, as for a child as well as for a 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 his/her abduction;
7. Welcomes the European Parliament Coordinator on Children's Rights support and involvement in addressing this situation and asks her to continue the cooperation with the committee in 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 conflict;
9. Proposes to develop a citizen -friendly European information support for parents in cross-border family disputes with the collaboration of the Hague Conference – e.g. completion of the e-Justice portal with information on parental child abduction to third countries as well as other children rights;
10. Recommends the Member States to make available for citizens reliable third country information concerning family law and children's rights, including alerts on difficulties they may encounter in countries such as Japan in case 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 SPA.
12. Calls on the High Representative for Foreign Affairs and Security Policy to include this issue in the agenda of the next meeting organized as part of the Strategic Partnership Agreement between the EU and Japan; Calls on the Japanese authorities for the application of its penal and civil codes;
13. Reminds the Japanese authorities of the obligations under the Hague Convention to ensure that Central Authorities fulfil their obligations set out in articles 6 and 7 of the 1980 Hague Convention, including to assist the left-behind parents to maintain contacts with his/her children;
14. Reminds the Japanese authorities to respect the provisions of the Vienna Convention on Consular Relations in order to enable EU state representatives to fulfil their consular duties, particularly in cases when safeguarding the best interests of children and rights of their parents, EU citizens is at stake;
15. Emphasizes that limitation or complete denial of parental access and visiting rights stays in breach of the art 9 of the UNCRC;
16. Requests the Commission and the Council to raise the obligations of States under the

UNCRC and in particular, the rights of children to maintain personal relations and direct contact with both parents on a regular basis except if it is contrary to the child's best interests;

17. Calls, in this respect, on the Japanese authorities to follow international recommendations to introduce necessary changes in their legal system and put in place the possibility of shared/joint custody after the dissolution of parents' relationship in order to bring in line their domestic laws with their international commitments and to ensure that visiting and access rights reflect their obligations under the UNCRC; Requests the Japanese authorities to uphold its commitments to the United Nations Convention on the Rights of the Child that has been ratified;
18. Calls on the Japanese authorities for better cooperation with the EU and to enable the effective enforcement of the access and visiting rights granted by court decision to the 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 European level;
20. Calls for increased international cooperation among the Members States and with third countries to implement all the international legislation concerning child protection and, particularly, the 1980 Hague Convention on the Civil Aspects of International Child Abduction;
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 about the risk of child abduction in the country and about the behaviour of 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 help along with the Commission on the setting up of 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 the Commission guidelines;
23. Calls on the Member States to make joint efforts and include this issue in the agenda of all the bilateral or multilateral meetings with Japan in order to put pressure on the Japanese authorities to implement fully their obligations under the 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.