As globalization progresses and migratory increases, the number of bi-national and bi-cultural relationships and marriages is increasing. This brings a new richness and diversity to our society, but can also bring new challenges and difficulties when those relationships break down. One of the difficulties that can arise is international family mediation, where one or more of the parties or children are in another country, often their country of origin, without the other parents’ consent. This usually results in complex legal proceedings under the Hague Convention or Brussels II B Regulation, and a time of intense anxiety and stress for all family members involved. In this case, and the broader area of dealing with family matters from a distance, it is an enormously significant part.

I must admit to being sceptical, when I first heard about the project, of how mediation could possibly work in such cases. However, a number of advantages can be seen in the context of international family mediation. Time-depth, for example, is an enormous advantage. In a majority of cases, the parties in this type of mediation are separated by a distance, and the pace and rhythm of mediation is determined by the parties themselves, not the mediator. In addition, the parties can use their time in a more productive way, as they can spend as long as they need on each issue, without being interrupted by issues that are not relevant to them.

The voice of the child or children will usually be brought into the mediation, either directly or by means of an interview with a third party such as a psychologist or social worker. The parties’ legal representatives are actively involved in the process, but are not the only ones who engage in the discussion. The mediator is a neutral party who facilitates the process, helping the parties to reach an agreement that is fair to all involved.

Another potential disadvantage of mediation in child abduction cases, particularly where time and distance are factors, is that it is not always clear what the legal framework within such cases is about. In fact, there are a number of legal frameworks that govern such cases, often with little or no overlap. This can create confusion and uncertainty for the parties involved. However, with the help of mediators, it is possible to navigate these legal frameworks and reach an agreement that is fair to all involved.

Another advantage worth mentioning is the potential for mediators collaborating with lawyers and judges to ensure the enforceability of agreements reached in mediation. This is particularly important in cases of child abduction, where the legal process for return is an easier one. In mediation, the real needs and interests of the parties can be identified, and the applicable legal frameworks can be determined, allowing for a more successful resolution.

Finally, the idea of mediation is an advantage of family mediation in general, as is the flexibility of the process. The mediator focuses on the needs and interests of the parties, and in particular their children, in a safe, confidential environment, as opposed to the strict legal procedures and time limits set by the Hague Convention. This allows for a more nuanced and personalized approach to resolving disputes, which is better suited to the needs of bi-national and bi-cultural families.

Furthermore, what room would there be for mediation within the strict legal procedures and time limits set by the Hague Convention? I must admit to wondering myself, when I first heard about the project, how mediation could possibly work in such cases. However, a number of advantages can be seen in the context of international family mediation.