As globalization progresses and migration 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 occur is international family abduction, where one parent abducts the child or children to another country, often their country of origin, without the other parent’s consent. This usually results in complex legal proceedings under the Hague Convention on Brussells II bis, Regulation, and is a time of intense anxiety and stress for all family members involved. Is it in this context, and in the broader area of dealing with the aftermath of an international abduction, that mediation is playing an increasingly significant part.

I recently had the privilege of taking part in the first Training in International Family Mediation, organized by a number of organizations involved in international child abduction and mediation – UNICEF from Denmark, Child Focus and the Katholieke Universiteit Leuven, Belgium, and Districts Intermaine Branchevorig from Ireland. The project was funded by the European Commission. Twenty-one mediations from twenty countries were conducted over a period of nine months, divided into three stages of approximately ten days each. The mediations were conducted in pairs of two mediators, one mediator from each country, and often from different countries, to test the feasibility of co-mediation teams. The first stage of the project, or on the first day of training, involved the mediation of a case of international child abduction, to simulate the context and the challenges associated with this type of mediation. The case was taken from the Hague Convention, and was about a German-Irish family, where one parent abducts the child to their country of origin. The mediation lasted for three days approximately. Very importantly in cases of child abduction, arrangements are often made for the child to be returned, even if an agreement is not reached. This is not the case for many international custody cases.

The voice of the child or children will usually be brought into the mediation, either directly or by means of an advocate or a translator. In the mediation I observed, the two mediators worked together with the head of the case, and a translator was present to translate the mediation to the parents. The head of the case is often a social worker, lawyer, or psychologist, who has a good understanding of the case and can translate the mediation. In the mediation I observed, the parents had to agree on the terms of the agreement, and the mediator was present to ensure that the agreement was fair and reasonable. The agreement is then signed by the parents, and is legally binding. This is not the case for many international custody cases.

Another advantage worth mentioning is the potential for mediators collaborating with lawyers and judges to ensure the enforceability of all agreements reached. Not only the return or retention of the child but also parenting plans and contact orders are often dealt with in mediation. In this particular mediation, I observed that the mediator and the lawyer worked closely together to ensure the enforceability of the agreement. The agreement was then signed by the parents, and is legally binding. This is not the case for many international custody cases.

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