

**COUNCIL OF ASEAN CHIEF JUSTICES WORKING GROUP ON CROSS-BORDER DISPUTES INVOLVING CHILDREN –
RESOURCE PAGE ON LEGAL PROCEDURE (VIETNAM)¹**

A. Resolution of Cross-Border Disputes involving Children – An Overview

(i) The Court system in Vietnam

The Vietnamese court model was restructured to a three-tier system of Supreme People's Courts, Provincial People's Courts, and Regional People's Courts, effective July 1, 2025, following amendments to the Law on the Organization of People's Courts and the 2015 Civil Procedure Law. This reform eliminated the previous "high-level" and "district-level" courts, replacing the latter with the new, more geographically expansive regional courts. The amendments aimed to streamline the judiciary, consolidate resources, and improve efficiency, especially for complex and foreign-related disputes.

Changes to the Vietnamese court system

Abolition of previous levels: The previous "high-level" and "district-level" courts were dissolved.

Establishment of Regional Courts: The 355 new Regional People's Courts have assumed the first-instance jurisdiction previously handled by district courts.

New three-tier structure: The new system consists of:

- The Supreme People's Court
- Provincial People's Courts

¹ Information is updated as of Oct 2025. Your attention is drawn to the disclaimers herein.

- Regional People's Courts

(ii) The Jurisdiction of the Provincial People's Courts that resolve cross-border family disputes involving children

- According to Article 37 of the 2015 Civil Procedure Code (CPC), the Provincial People's Court has the jurisdiction of first instance over civil cases with foreign elements, including:
 - Marriage disputes in which one party is a foreigner or lives abroad
 - Disputes over child custody, alimony, and division of property upon divorce involving foreign elements
 - Adoption, guardianship, and handover of children between Vietnam and another country
 - The provincial court where the defendant resides, works, or has assets in Vietnam (if the defendant is a foreigner living in Vietnam) Vietnam)
 - If the place of residence/temporary residence cannot be determined, it can be based on the location of the property, or according to the agreement of the parties.

(iii) The role of other government agencies

1. Ministry of Justice

- Is the core agency in legal work and international judicial assistance.
- Implements the assistance in civil matter.
- Appraises adoption records involving foreign elements.
- Coordinates the implementation of international conventions such as the Hague Convention, the Convention on the Rights of the Child (CRC).

- The Department of Adoption under the Ministry of Justice handles cross-border adoption records.

2. Ministry of Foreign Affairs

- Directs diplomatic missions (Embassies, Consulates) to support Vietnamese citizens in family and child disputes abroad.
- Issues consular documents (legalization, certification) for legal procedures.
- Supports verification of marital status, birth certificates, and nationality in disputes.

3. Ministry of Public Security

- Manages residence, household registration, and nationality - important factors in determining child custody and child migration rights.
- Handles cases related to illegal migration, human trafficking, and cross-border child kidnapping.
- Coordinates criminal prosecution if there are signs of crime.

4. National Committee for Children

- Is an inter-sectoral organization that monitors and protects children's rights.
- Monitors and urges the implementation of children's rights according to international conventions.
- Coordinate the handling of transnational child rights violations.

5. Provincial/municipal People's Committees

- Direct the Departments of Justice, Foreign Affairs and District Justice Offices in receiving and handling related disputes.
- Resolve administrative procedures such as birth registration, nationality, and residence for children with foreign elements.

6. Inter-sectoral coordination

Agencies often coordinate in the following cases:

- Divorce with foreign elements.

- Child custody disputes (sending/returning children abroad).
- International adoption.
- Transnational child abduction (according to the 1980 Hague Convention).
- Enforcement of foreign court judgments/decisions related to family and children.

(iv) whether lawyers are required

People have the right to request a lawyer

According to Vietnamese law, every individual has the right to invite a lawyer to protect their legitimate rights and interests in civil cases, including cross-border disputes on marriage, child custody, adoption, etc.

Legal basis:

- Law on Lawyers 2006 (amended and supplemented in 2012)
- Civil Procedure Code 2015 (Article 76, Article 85, etc.)

Lawyers have the right to participate in Lawyers:

- Legal advice before, during and after the case
- Drafting, filing a lawsuit/appeal/protest
- Representing or accompanying clients in court in Vietnam
- Working with state agencies (Court, Ministry of Justice, Ministry of Foreign Affairs, etc.)
- Acting as an intermediary to support reconciliation and negotiation between the parties

(v) existence of Alternative Dispute Resolution (“ADR”) mechanisms, e.g., mediation

Mediation plays an important role in resolving disputes.

Vietnam has the Law on Mediation and Dialogue in Court 2020

Regarding the family disputes involving children across borders, mediation helps to reduce tensions, protect the best interests of the child, and respect the right to self-determination of the parties

Many international conventions and national laws encourage the use of mediation in dispute resolution, such as the Hague

Convention on Measures for the Protection of Children, the United Nations Convention on the Rights of the Child

B. Legal procedures for applications concerning cross-border disputes involving children

Vietnam is not a signatory to the 1980 Hague Convention on the Civil Aspects of International Child Abduction, so the **International Child Abduction Act** (which is based on the Convention) does not directly apply to Vietnam.

In Vietnam, to resolve cross-border family and child disputes, the applicable legal provisions include:

1. 2015 Civil Code (amended and supplemented in 2022)

- Regulating issues related to civil relations with foreign elements, including cross-border family and child disputes.
- Regulations on jurisdiction, applicable law, recognition and enforcement of decisions of foreign agencies.

2. 2015 Civil Procedure Code (amended and supplemented in 2022)

- Regulations on jurisdiction to resolve civil cases with foreign elements, including family and child disputes.
- Procedures for litigation, recognition and enforcement of judgments and decisions of foreign courts.

3. Law on Marriage and Family 2014

- Regulates marriage and family relations, including a number of provisions related to the protection of children's rights, the resolution of disputes over child custody, alimony, and visitation, especially when there are foreign elements.

4. Law on Children 2016

- Protects the legitimate rights and interests of children, including children with foreign elements or related to cross-border disputes.

5. International treaties to which Vietnam is a member

- For example, the Hague Convention on Measures for the Protection of Children (Hague Convention 1996), the United Nations Convention on the Rights of the Child, conventions on international adoption, etc.
- Vietnam can apply these international treaties in the resolution of cross-border family and children disputes.

6. Guiding documents for implementation

- Resolutions and circulars of the Supreme People's Court and the Ministry of Justice guiding the application of law in cases involving foreign elements.

Family and Juvenile Court: In 2016, Ho Chi Minh City launched Vietnam's first specialized Family and Juvenile Court within its Provincial People's Court system. Since then, these specialized courts have been expanded to many other provinces to better handle cases involving minors.

*The settlement of cross-border family and child disputes in Vietnam is mainly regulated by the Civil Code, the Civil Procedure Code, the Law on Marriage and Family, the Law on Children, along with international treaties to which Vietnam is a party. Competent authorities will uniformly apply these regulations to protect the legitimate rights of relevant parties, especially the rights of children.

C. Information on legal aid and assistance

The 2017 Law on Legal Aid of Vietnam

The right to access to justice is a fundamental component of human rights, reflecting the democratic and progressive nature of the State. In order to guarantee the right to access to justice for everyone, the State provides free legal aid services to designated groups, helping them acquire legal knowledge to exercise their rights and perform their obligations by themselves or appointing lawyers to represent them and protect their lawful rights and interests in legal proceedings. Guaranteeing the right to access to justice is thus one of the essential building blocks in establishing a society based on freedom, equality and justice.

Legal aid is a type of essential public service of the Judiciary, a legal service provided free of charge to people eligible for legal aid in legal aid cases according to the provisions of the 2017 Law on Legal Aid, contributing to ensuring human rights, citizens' rights in access to justice and equality before the law. Article 7 of the Law on Legal Aid stipulates that all children (under 16 years old) are entitled to free legal aid from the State. In Vietnam, the right to legal aid is regulated. Legal aid for children has been expanded beyond the commitment in the International Convention on the Rights of the Child.

D. Other Resources

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E. Disclaimers

- a. The information in the above write-up is provided only for general guidance and is not intended to be taken as legal advice. Readers and/or users should refrain from acting on the above information without first seeking independent legal advice.
- b. The availability of legal aid and assistance is subject to the law and policy of each jurisdiction.
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