

Children in cross-border families

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When parents live in different countries or plan to move, questions about the children quickly become the most sensitive part of a separation. Switzerland is party to several international conventions in this field, which determine the competent authorities and the applicable law. The rules are designed to protect the child, and their application depends closely on the individual case.

1 Parental responsibility

Under the Swiss Civil Code, parental responsibility is as a rule exercised jointly by both parents, including after divorce and for parents who are not married to each other. Sole parental responsibility is ordered only where the child's welfare requires it. In international situations, the Hague Child Protection Convention of 1996 generally gives jurisdiction to the authorities of the state in which the child has his or her habitual residence.

2 Moving abroad with a child

A parent who shares parental responsibility needs the consent of the other parent, or a decision of the court or child protection authority, to change the child's place of residence to another country (Art. 301a CC). The authorities assess the planned move in light of the child's welfare, taking into account, among other things, the child's relationships, schooling and the practical arrangements for contact with the other parent. Careful preparation of a relocation request is therefore important.

3 The Hague Child Abduction Convention

If a child is wrongfully removed to or retained in another state that is party to the Hague Child Abduction Convention of 1980, the left-behind parent can apply for the child's prompt return. The procedure is intended to

restore the previous situation quickly and does not decide on custody itself. Return may be refused only on limited grounds, and Switzerland has adopted federal implementing legislation that emphasises the child's welfare in this assessment.

Not every state is party to the Convention, and its relations with particular states depend on acceptances of accession. The position of the specific country concerned should be checked as a first step.

4 Child maintenance

Swiss law obliges both parents to contribute to their child's maintenance, which covers cash payments as well as care. In cross-border situations, the applicable law and the competent courts are determined by international conventions and the PILA, and the enforcement of maintenance decisions abroad may rely on further treaties. Because these rules differ from country to country, the strategy for establishing and collecting maintenance should be planned with the country of the debtor in mind.

5 What pays off in practice

- **Agree before moving.** A written agreement on relocation and contact, approved where necessary, reduces later conflict.
- **Act quickly in abduction cases.** Timing can be decisive under the Hague Convention, so early legal steps are essential.
- **Keep the child's perspective central.** Authorities in Switzerland focus on the child's welfare, and well-prepared proposals reflect this.

6 How Ressos Legal helps

I advise parents in Switzerland on parental responsibility, relocation and cross-border maintenance and work with family lawyers abroad when children are taken across borders. [Contact me](#) for a first conversation.

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Online version: helveticaregister.com/children-cross-border-families-switzerland