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New Study To Help International Custody Battles

By Matthias Loinig,

The European Commission has commissioned a study with the aim of putting an end to cross-border custody battles and ensuring children's well-being in such cases.

Austria has seen an increase in cases of cross border custody battled over the past years such as the cases Oliver, Caspar and Sophia to name a few. Cases in which children have ended up the victims of international custody battles.

The European Commission together with Deloitte Consulting will carry out the study and the results will be used to identify the practical difficulties in implementing the Brussels IIa VO framework with the aim of improving the system and ultimately improving the well-being of the children involved.

In order to carry out the study – Judges, Ministers and lawyers will be interviewed in all of the EU countries.

In Austria International Family Law Expert Britta Schönhart was interviewed by Anne Siede in Hamburg, Germany.

Schönhart emphasized that the biggest problem is the regulation on the jurisdiction in each individual EU country.

She said: "Each country involved used the country's own law and this can have grotesque consequences. It can mean that one parent has custody in one country and the other parent in their country. This leads to a lot of legal uncertainty amongst the population."

She also underlined that the well-being of the child is not taken into enough consideration in the EU. There are EU countries where the custody is given to one parent even though the child is not even consulted.

As a result of the Brussels IIa framework such rulings have to be recognised throughout the EU and can be implemented, which can in some cases be traumatising for a child.

Schönhart said: "We have to have a system whereby a custody judgement is recognised throughout the whole of the EU and whereby the child's well-being is sufficiently taken into consideration.

The study is due to take nine months time and it is thought once the results are complete there will be a rework of the Brussels IIa framework.

Schönhart concluded: "I hope the results of the study lead to the children and their well-being being put in first place when it comes to international custody battles."

Austrian Times

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